

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL 31 1985 A

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

LARRY JAMES GAMBLE,)	
)	
Plaintiff,)	
)	
vs.)	
)	
J. R. PEANNAN, RENE HENRY,)	
STATE OF OKLAHOMA, et. al.,)	
)	
Defendants.)	

No. 85-C-673-C ✓

ORDER

Now before the Court for its consideration on its own motion is plaintiff Larry Gamble's complaint.

Plaintiff is an inmate at the Connors Correctional Center, at Hominy, Oklahoma. He instituted this action pursuant to 42 U.S.C. §1983, seeking release on bond as relief for alleged violation of his civil rights.

In his complaint, plaintiff alleges that the defendant J. R. Peannan, District Court Judge of Osage County, Oklahoma and the defendant Rene Henry, Assistant District Attorney for Osage County, Oklahoma, acting on behalf of defendant State of Oklahoma, violated plaintiff's constitutional rights under the Fourth, Eighth, and Fourteenth Amendments in that on or about March 21, 1985, defendant Henry argued in court for the denial of plaintiff's appeal bond following his conviction of the offenses of possession of marijuana and commercial gambling in Osage

County Case No. CRF-83-105 and in that Judge Peannan thereupon denied plaintiff's motion for an appeal bond.

It is well established that Judges are absolutely immune from civil liability for judicial acts, unless committed in the clear absence of all jurisdiction. Stump v. Sparkman, 435 U.S. 349 (1978). The Court finds no such absence of jurisdiction in this case nor an allegation of same.

In regard to the acts of the District Attorney's assistant, the United States Supreme Court has held that a prosecutor is absolutely immune for any acts or omissions which were undertaken in the scope of his or her duties in initiating and pursuing a criminal prosecution and in presenting the State's case. Imbler v. Pachtman, 424 U.S. 409 (1976). All allegations of the plaintiff concerning the actions of the Assistant District Attorney would clearly fall within the scope of the prosecutorial immunity outlined by the Supreme Court.

It is also well established that a state prisoner has no absolute federal constitutional right to bail pending appeal. Hamilton v. State of New Mexico, 479 F.2d 343 (10th Cir. 1973). This Court does not sit as an appellate court to review the use or abuse of discretion of state courts in granting or withholding bail pending final appeal, and generally, denial of bail is not an available basis for seeking post-conviction relief. See Bloss v. Michigan, 421 F.2d 903 (6th Cir. 1970) and Corbett v. Patterson, 272 F.Supp. 602 (D.C. Colo. 1967).

The Court authorized commencement of this action in forma pauperis under authority of 28 U.S.C. §1915. Subsection (d) of that statute permits the dismissal of a case when the court is satisfied that the action is frivolous. Moreover, both the Supreme Court and the Tenth Circuit Court of Appeals have held that federal jurisdiction does not lie where a purported civil rights claim is simply unsubstantial, or where no rational argument can be made on the facts or the law. Hagans v. Lavine, 415 U.S. 528, 536, (1973); Wells v. Ward, 470 F.2d 1185, 1187 (10th Cir. 1972); Smart v. Villar, 547 F.2d 112 (10th Cir. 1976); Henricksen v. Bentley, 644 F.2d 852 (10th Cir. 1981).

Accordingly, this action is, in all respects, dismissed.

IT IS SO ORDERED this 31 day of July, 1985.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Sue A. McCann, et al)
)
 Plaintiff)
)
 vs.)
)
 United States of America,)
)
 Defendant.)

No. 78-C-578-F

FILED
JUL 30 1985
U.S. DISTRICT COURT

ORDER

Pursuant to the Stipulation entered into between the Parties, the
above entitled case is Dismissed with Prejudice. *Each party to pay*
their own costs. *\$45.*
Dated this 30 day of July, 1985.

Shenan G. Finsilver
Judge

FILED

JUL 30 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GEORGE THOMAS PITNER and NELDA)
GENE PITNER,)
)
Plaintiffs,)
)
vs.)
)
FIBREBOARD CORPORATION, et al.)
)
Defendants.)

No. 84-C-284-E

ORDER OF DISMISSAL

NOW on this 26th day of July, 1985, the Court being advised that a compromised settlement having been reached between the Plaintiffs and the named Defendants, and those parties stipulating to a dismissal with prejudice, the Court orders that the captioned case be dismissed with prejudice as to Rock Wool Manufacturing Company, Flintkote Company, Combustion Engineering, Inc., H. B. Fuller Company, Inc., and National Gypsum Company.

S/ JAMES O. ELLISON

United States District Judge

LAW OFFICES
UNGERMAN,
CONNER &
LITTLE

MIDWAY BLDG.
2727 EAST 21 ST.
SUITE 400

P. O. BOX 2089
TULSA, OKLAHOMA
74101

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 30 1985

GEORGE THOMAS PITNER and
NELDA GENE PITNER,

Plaintiffs,

vs.

FIBREBOARD CORPORATION;
JOHNS-MANVILLE SALES CORPORATION;
OWENS-CORNING FIBERGLASS CORPORA-
TION; EAGLE-PICHER INDUSTRIES,
INC.; PITTSBURGH-CORNING CORPORA-
TION; CELOTEX CORPORATION;
GAF CORPORATION; ARMSTRONG
CORK COMPANY; STANDARD ASBESTOS
MANUFACTURING & INSULATING COMPANY;
NICOLET INDUSTRIES, INC.;
KEENE CORPORATION; COMBUSTION
ENGINEERING, INC.; FORTY-EIGHT
INSULATION, INC.; RYDER INDUSTRIES,
INC.; OWENS-ILLINOIS, INC.;
RAYMARK INDUSTRIES, INC.;
FLINTKOTE COMPANY; ROCK WOOL
MANUFACTURING COMPANY;
H. B. FULLER COMPANY;
UNARCO INDUSTRIES, INC.;
H. K. PORTER COMPANY, and
NATIONAL GYPSUM CO.,

Defendants.

Jack C. Simer, Clerk
U. S. DISTRICT COURT

No. 84-C-284-E

MODIFIED ORDER OF DISMISSAL

Now on this 26th day of July, 1985, the Court being advised that a compromise settlement having been reached between the plaintiffs and the named defendants, and those parties stipulating to a dismissal with prejudice, the Court orders that the Order of Dismissal previously filed on July 16, 1985 be modified and that the captioned case be dismissed with prejudice as to OWENS-ILLINOIS, INC., OWENS-CORNING FIBERGLAS CORPORATION, EAGLE-PICHER INDUSTRIES, INC., FIBREBOARD CORPORATION, CELOTEX CORPORATION, GAF CORPORATION and KEENE CORPORATION.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE.

TULSA, OKLAHOMA 74103

July 30, 1985

JACK C. SILVER
CLERK

(918) 581-7796
(FTS) 736-7796

TO: COUNSEL/PARTIES OF RECORD

RE: Case # 85-C-672-C; PETER J. McMAHON, JR.
VS
JOHN J. MAKOWSKI

This is to advise you that Chief Judge H. Dale Cook entered the following Minute Order this date in the above case:

"It is ordered that plaintiff's request to withdraw his complaint filed of record on July 22, 1985 is thereby granted. Action is dismissed."

Very truly yours,

JACK C. SILVER, CLERK

By: *Anita Muxerief*
Deputy Clerk

cc: Mr. Peter J. McMahon, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THE BOARD OF TRUSTEES OF THE PLUMBERS)
AND PIPE FITTERS NATIONAL PENSION)
FUND; THE BOARD OF TRUSTEES OF THE)
PLUMBERS AND PIPE FITTERS LOCAL 205)
HEALTH AND WELFARE FUND; THE BOARD OF)
TRUSTEES OF PLUMBERS AND PIPE FITTERS)
LOCAL 205 APPRENTICESHIP FUND; THE)
BOARD OF TRUSTEES OF THE PLUMBERS AND)
PIPE FITTERS LOCAL 205 ANNUITY FUND;)
THE BOARD OF TRUSTEES OF THE PLUMBERS)
AND PIPE FITTERS LOCAL 205 VACATION)
FUND; and THE BOARD OF TRUSTEES OF THE)
PLUMBERS AND PIPE FITTERS LOCAL 344)
BENEFITS ADMINISTRATION FUND,)

Plaintiffs,)

vs.)

DONOHUE SERVICE COMPANY, INC., an)
Oklahoma corporation,)

Defendant.)

FILED

JUL 29 1985

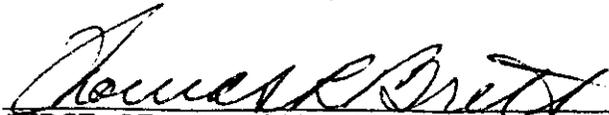
Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 85-C-37 B

ORDER

This matter comes before the Court on this 30 day of July, 1985, on the Joint Motion for Dismissal. The Court finds that the parties have entered into a settlement agreement. The Court further finds that the plaintiffs entered into this settlement agreement as a result of a prudent business decision.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this matter is dismissed with prejudice.


JUDGE OF THE UNITED STATES DISTRICT
COURT FOR NORTHERN OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 30 1985

JACK G. SILVER, CLERK
U.S. DISTRICT COURT

SHARON VAUGHN,)	
)	
Plaintiff,)	
)	
vs.)	NO. 85-C-610-C
)	
ST. JOHN MEDICAL CENTER,)	
)	
Defendant.)	

STIPULATED DISMISSAL WITH PREJUDICE

COME NOW the Plaintiff, Sharon Vaughn, and the Defendant, St. John Medical Center, by and through its attorneys, Doerner, Stuart, Saunders, Daniel & Anderson, and pursuant to Rule 41 of the Federal Rules of Civil Procedure, stipulate and agree to dismiss this action, with prejudice to the filing of any future action.

Sharon Vaughn
SHARON VAUGHN, Plaintiff

DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

By: [Signature]
Linda C. Martin
Charles S. Plumb
1000 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 582-1211

Attorneys for Defendant,
St. John Medical Center

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 30 1985

NATIONAL DIVERSIFIED PROPERTIES
CO., a Texas corporation,

Plaintiff,

vs.

AMERICA ENERGY RESOURCES
CORP., an Oklahoma
corporation,

Defendant.

No. 85-C-547-E

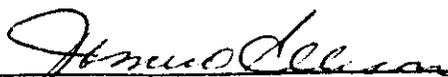
Jack C. Silver, Clerk
U. S. DISTRICT COURT

DEFAULT JUDGMENT

On this 26th day of July, 1985 this matter comes on for consideration of the Plaintiff's application for judgment by default. The Court finds, and

IT IS THEREFORE ORDERED AND ADJUDGED that:

1. The Clerk of this Court entered judgment by default on the 19th day of July, 1985.
2. The Clerk's entry of default was proper, and is thereby approved by the Court.
3. Judgment should therefore be entered in favor of the Plaintiff and against the Defendant, America Energy Resources Corporation, for \$64,284.65, together with interest at the rate of 15% per annum from October 24, 1985 until the date of judgment, interest at the rate of 7.6% per annum from date of judgment until paid and the costs of this action.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CRAWFORD ENTERPRISES
MANUFACTURING, INC.,

Plaintiff,

v.

RYDER/P-I-E NATIONWIDE, INC.,

Defendant and
Third Party Plaintiff,

v.

DAVID P. KLINGSHIRN,

Third Party Defendant.

No. 84-C-395-B

FILED

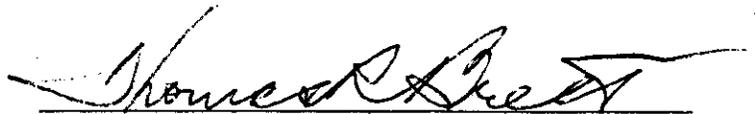
JUL 30 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

This matter was tried to the Court on May 30, 31 and June 3, 1985. At the outset of trial, the parties agreed to dismiss third party defendant David P. Klingshirn. In accordance with the agreement of the parties, the Court hereby dismisses third party defendant David P. Klingshirn.

ENTERED this 30th day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 30 1995

M. LeANN HUXALL,
Plaintiff,

vs.

FIRST STATE BANK, COMMERCE,
OKLAHOMA, AND OTTAWA COUNTY,
Defendants.

No. 85-C-41-E

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

THIS MATTER is before the Court upon the motion of Defendant First State Bank to dismiss, and oral motion of Plaintiff to amend.

The Defendant bank obtained a default judgment against the Plaintiff in the District Court of Ottawa County in an action on a loan. The Defendant obtained a post judgment writ of execution, which directed the Sheriff to seize certain property located at the "Medicine Man Pharmacy". The subject property had been listed as collateral on the note. The property seized was subsequently sold at a Sheriff's auction. The Plaintiff alleges that exempt property, including household goods, family heirlooms, collections, wedding gifts, items leased by the Plaintiff, and tools of trade were seized along with the collateral. Plaintiff also alleges that the premises were damaged during the seizure and that certain property was bought at the Sheriff's sale by an officer of the Defendant bank.

The bank argues that it is a private entity, that no

deprivation without due process occurred, and that it is not a state actor under Title 42 U.S.C. § 1983.

To allege a proper cause of action under § 1983, a plaintiff must show:

1. That she has been deprived of a right secured by the constitution and laws of the United States; and
2. That the Defendant deprived her of that right "under color of state law".

The Plaintiff alleges that the constitutional deprivation was the seizure of her exempt property without due process. Whether Plaintiff's complaint alleges only a private misuse of a state statute, or a conspiracy between a state employee and the bank, Plaintiff must allege a deprivation of a constitutional right. It is undisputed that a judgment was entered in Ottawa County District Court by default, and that an order of execution was obtained from the court. The seizure of property in the Medicine Man Pharmacy was pursuant to this order of execution, and the property was listed on the order. Plaintiff alleges that after the seizure a letter was delivered to the bank and to the sheriff which alleged that some of the property seized was exempt from execution. Plaintiff, however, does not allege any effort on her part to make use of the available judicial procedure to protest the seizure of allegedly exempt property. Nor does Plaintiff allege that no procedure was available, or that the property was seized prior to a hearing. Subsequent to the seizure, the defendant bank sought a confirmation of sale from

the District Court pursuant to Title 12, O.S. § 765. There is no record of any attempt by Plaintiff to assert allegations of improper seizure at that time.

Plaintiff attempts to separate goods allegedly properly seized, and goods allegedly improperly seized, for purposes of this complaint. For purposes of a state court action in conversion, for instance, such a separation may be relevant, but with regard to an alleged deprivation of property rights without due process, the distinction is not relevant. It is undisputed that all of the property seized was within the confines of the Medicine Man Pharmacy. The security agreement executed by Plaintiff to the defendant bank described the property as follows:

- A. All furniture;
- B. Fixtures;
- C. Inventory;
- D. Cash;
- E. Accounts receivable and bank accounts including but not limited to the items described, including all accessions and additions thereto, all replacements thereof, and all proceeds thereof.

Said property was listed on the order of execution given to the sheriff. All furniture, fixtures and inventory within the confines of the pharmacy were seized by the sheriff. The propriety of the seizure of each individual item may be determined in the judicial proceedings available to the Plaintiff. A deprivation without due process of law contemplates

the seizure of one's property without an opportunity for a hearing, and does not contemplate all seizures of property.

Because Plaintiff has failed to allege a constitutional deprivation, this Court need not address the state action question briefed by Defendant in its motion to dismiss.

In addition, because there is no constitutional deprivation, this action may not be maintained against Defendant Ottawa County under 42 U.S.C. § 1983, and the claims against this Defendant must also be dismissed.

The Court has considered Plaintiff's arguments at conference in support of her request to amend the complaint to name the Sheriff of Ottawa County as a defendant, and finds that such amendment must be denied. Inasmuch as an amended complaint would be subject to dismissal for the above-stated reasons, the Court finds the proposed amendment would be futile. Foman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 230 (1962); Sooner Products Co. v. McBride, 708 F.2d 510 (10th Cir. 1983).

IT IS THEREFORE ORDERED AND ADJUDGED that the motion of Defendant First State Bank to dismiss be and the same is hereby granted.

IT IS FURTHER ORDERED that the complaint against Defendant Ottawa County be, and the same is hereby sua sponte dismissed.

IT IS FURTHER ORDERED that Plaintiff's request to amend to add the Sheriff of Ottawa County be, and the same is hereby

denied.

ORDERED this 26th day of July, 1985.



JAMES P. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 30 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JOHNNY R. WARD,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-471-E

DEFAULT JUDGMENT

This matter comes on for consideration this _____ day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Hubert A. Marlaw, Assistant United States Attorney, and the Defendant, Johnny A. Ward, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Johnny A. Ward, acknowledged receipt of Summons and Complaint on May 17, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Johnny A. Ward, for the principal sum of \$2,180.00, plus interest in the amount of \$514.89 and administrative costs of \$19.83, plus

interest thereafter at the rate of 15.05 percent per annum until judgment, plus interest thereafter at the legal rate until paid, plus costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

FILED

JUL 30 1985

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

WACK G. SILVER, CLERK
U.S. DISTRICT COURT

GALE LIN HOWERTON,)
)
 Plaintiff,)
)
 v.)
)
 MARGARET M. HECKLER, Secretary)
 of Health and Human Services,)
)
 Defendant.)

No. 84-C-112-C

ORDER REMANDING CASE TO
DEFENDANT FOR FURTHER PROCEEDINGS

Plaintiff brought this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g) (1976), for judicial review of a final decision of the Secretary of Health and Human Services (Secretary) denying her claim for social security benefits under §§ 216(i) and 223(d) of Title II of the Act, 41 U.S.C. §§ 416(i) and 426(d) (1976 and Supp. III, 1979).

After the matter was referred to the Magistrate for Findings and Recommendations, the Magistrate entered a minute on April 23, 1985 recommending that the Court remand the case to the Secretary for further proceedings. The Magistrate's term ended on July 7, 1985, before the Magistrate had completed and filed written findings and recommendations. The Court has, therefore, considered the file, the transcript of the proceedings before the Secretary, and the briefs of the parties, and has concluded that the case should be remanded to the Secretary for further proceedings.

Plaintiff filed his application for disability benefits on October 28, 1982, in which he claims he became unable to work on October 15, 1979, because of "[b]lack and neck injury." (Tr. 54).¹ Plaintiff's application was denied administratively both initially and on reconsideration, after a physician and disability examiner evaluated the evidence and determined that Plaintiff was not disabled within the meaning of the Act. (Tr. 58-59, 137-139, 143-144). Plaintiff then requested and was granted a hearing before Administrative Law Judge (ALJ) George Hargrave, Jr. on August 25, 1983. The ALJ found that Plaintiff "was not under a 'disability' as defined in the Social Security Act, at any time through the date of [his] decision [September 2, 1983]," and that Plaintiff "is not entitled to a period of disability or disability insurance benefits under ... the ... Act." (Tr. 19). Plaintiff then requested a review of the ALJ's decision by the Appeals Council, and on December 9, 1983, the Appeals Council denied Plaintiff's appeal, and the decision of the ALJ became the final decision of the Secretary. (Tr. 6-7).

At the hearing before the ALJ, the Plaintiff appeared personally and with his attorney, Rick Folluo. Plaintiff was born on April 21, 1946 and has a ninth grade education. (Tr. 16). Plaintiff testified that he was involved in an automobile accident on October 15, 1979; that at the time of the accident he

¹ Plaintiff previously filed applications for disability insurance benefits on July 1, 1976, October 14, 1977, January 30, 1979 and March 17, 1980 (Tr. 34-37, 40-63, 46-49, 50-53). Each of plaintiff's applications was denied initially and plaintiff did not further pursue his administrative remedies for review (Tr. 16, 38-39, 44-45, 125-130, 132-133). Therefore, each decision on the prior applications became the final decision and is not now before this Court for judicial review. Califano v. Secretary, 430 U.S. 99 (1977).

was a truck driver and has not worked since the date of the accident; that he has also worked as a welder, carpenter, truck driver, aircraft combat sheet metal worker and as a car salesman; that he cannot work at the present time as a car salesman because he "can't walk a lot on hard surfaces ... can't get in and out of the cars like other people do ... [that anytime] [he] start[s] moving around, [he] get[s] to hurting worse and worse"; that he can't work as a welder "[b]ecause [he] can't lift up anything" and cannot lift more than 5 pounds with his left arm"; that he "cannot do carpentry work because he cannot lift 2 x 4's and 2 x 6's ... and stuff like that"; that he cannot work as a truck driver because of the "[v]ibration, bouncing in the truck, shifting gears, ... and cannot sit at any one time for longer than "about 15 or 20 minutes." Plaintiff further testified that prior to the accident he did not have any neck problems but had a few back problems, and that the accident aggravated his back problems; that one of his legs feels "cold all the time"; that his "doctors told [him] [he] should put on long-johns on one leg to keep it warm"; that he cannot walk up and down stairs, cannot run, needs help in buttoning his shirt and has to have someone put his socks and pants on for him; that when he wakes up in the morning he either stays in bed or lies on the couch; that he is unable to help with the house work; that he has "pain in [his] neck radiating down through [his] shoulder, [his] left arm, ... [his] back hurts on the left side radiating down to [his] left leg, arthritis pain throughout [his] body."

The ALJ noted that Mr. Howerton uses a right arm crutch, . . . has his left arm in a sling and . . . [has] trouble walking and sitting and standing . . ." The ALJ then asked if Plaintiff would "agree to an examination by a neurosurgeon or somebody qualified . . . if need be." Plaintiff's attorney stated that he would.² The ALJ did not ask Plaintiff any additional questions nor was there any further testimony of any other witnesses at the time of the hearing.

At Page 162 is a medical report dated March 2, 1976, signed by G. W. Prutzman, M.D., in which Dr. Prutzman states that "[r]eview of the patient's myelogram shows some slight central bulging at both L-4, 5 and L-5, S-1 levels but no definite nerve root cutoff"; that "[t]wo Electromyograms have been done; one was negative and another interpreted as showing some S-1 nerve root involvement." The report further shows that Plaintiff has "Low back sprain with radiating radiculopathy of the left leg." The report further states "that the patient's clinical findings as well as objective findings are not consistent enough to warrant surgical intervention"; that "on the basis of a degree of disc bulging . . . surgical intervention in the future" may be necessary."

Dr. Prutzman concludes that "[a]t this time, however, [he] would continue with conservative care."

At Pages 163-169 are hospital records of St. Mary's Hospital, Reno, Nevada covering Plaintiff's hospitalization from June 3, 1976 through June 13, 1976. The report shows surgery for the purpose of "[e]xploration of the L4 and L5 interlaminar

² There is nothing in the record to indicate that the ALJ requested Plaintiff be examined by a neurosurgeon following the hearing.

spaces on the left which were the last two mobilintersp which were explored." The "Postoperative Diagnosis" states as follows: "Negative exploration for ruptured disc with the root found mildly compressed by tight foramen, laterally but no significant pressure found." (Tr. 169)

At Pages 171-178 of the Transcript are records of St. Mary's Hospital, Reno, Nevada covering Plaintiff's hospitalization from July 3, 1976 through July 23, 1976. The "Discharge Summary" states that "patient continued to have severe pain post-operatively and was readmitted to the hospital for evaluation"; that "patient was seen in consultation by Dr. Colgan and the patient ran a fairly benign course in the hospital and during his hospitalization he was given Demerol for his pain"; that "[t]he patient was restless during his hospital stay and he said that his incision was hurting him"; that "[t]here was some puffiness over the lower aspect of his wound, with some questionable cellulitis." The report further states that during his hospital stay, "[t]he patient continued to get pain medications with relief"; that "during this hospitalization his hands shook quite a bit and there was some concern about what medications he had been taking at home"; that "he continued to have trouble sleeping at night"; that "[h]e was discharged home on Talwin" and was to see Dr. Dawson in his office following his release from the hospital. (Tr. 172).

At Page 199 of the Transcript is an "Operative Record" from the Washoe Medical Center, Reno, Nevada, covering Plaintiff's "Myelogram" procedure performed on December 8, 1976. The record shows that "[a]ll studies revealed good filling of the nerve

roots with fairly good approximation of the anterior bura to the posterior aspect of vertebral bodies and their seems to be no disc defect present or any abnormality present which would cause the patients pain."

Appearing at Pages 217-218 is a medical report of Kenyon K. Kugler, M.D., dated January 4, 1978, in which Dr. Kugler states as follows:

In summary, this thirty-one year old male has had persistent recurrent back and left leg pain in spite of laminectomy in 1975 followed by wound infection requiring two subsequent operations. He has marked limitations because of pain at the present time, but is able to tolerate standing and sitting positions fairly well and is anxious to return to some type of light work. I would agree that he would be suitable for this but certainly not for anything strenuous such as welding or anything requiring heavy lifting. He has been taking Demerol periodically and Valium to help relieve his symptoms, and I have given him a prescription for Valium. I find no definite evidence of a radiculopathy on his examination at the present time or anything that would suggest necessity for repeat myelogram or surgical exploration, particularly in view of the severe difficulties he has had with operations in the past.

At Pages 220-230 are hospital records of Oklahoma Osteopathic Hospital, Tulsa, Oklahoma, covering Plaintiff's hospitalization from February 26, 1979, through March 1, 1979. From his examination of Plaintiff, Dr. Mark Brenner, D.O., states as follows:

NEUROLOGICAL: Exam reveals a positive LaSegues straight leg test on the left leg. Patient also is complaining of low back pain with radiation of the pain down the posterior aspect of his left leg. he can walk on his toes with difficulty but cannot heel walk. There does not appear to be any sensory deficits and the deep tendon reflexes do not appear to be altered.

MUSCULOSKELETAL: Patient would not allow vigorous musculoskeletal exam due to the amount of pain and discomfort of which he was complaining.

IMPRESSIONS: 1. LUMBOSACRA STRAIN.

2. RULE OUT HERNIATED LUMBAR DISC
L4-L5 REGION.

(Tr. 223).

At Pages 233-242 of the Transcript are hospital records of Oklahoma Osteopathic Hospital, Tulsa, Oklahoma covering Plaintiff's hospitalization from October 15, 1979 through October 17, 1979. The records show under "Final Diagnosis" that Plaintiff "signed himself out before a history & physical could be done." The records do include a report from the Department of Radiological Sciences which states as follows:

THORACIC SPINE

AP, lateral and Swimmer's views are felt to be within normal limits.

LUMBAR SPINE

AP and lateral views show intervertebral disc spacing to be within normal limits. We do identify evidence of previous myelography.

(T. 242).

At Pages 243-251 are records of Oklahoma Osteopathic Hospital, Tulsa, Oklahoma, covering Plaintiff's hospitalization from January 22, 1980 through January 29, 1980. The records show under "Final Diagnosis" "acute & recurrent cervical dorsal strain." (Tr. 243). The report further shows as follows:

MUSCULOSKELETAL: There is no kyphosis, lordosis or scoliosis, however there is a 7 cm. scar in the lower lumbar area. There is no paravertebral muscle fullness or tenderness in the lower lumbar region at this time.

NEURO: Cranial nerves II-XII grossly intact. Deep tendon reflexes appear present and equal bilaterally including the biceps, triceps, patellar and achilles. There is no sensory deficit noted.

IMPRESSIONS:

1. Acute and recurrent cervical strain.
2. Chronic lumbar strain.
3. Possible emotional instability.

(Tr. 246).

Appearing at Pages 256-257 is a medical report of Guy D. Reed, D.O., dated June 17, 1981 addressed to the Social Security Administration at Tulsa, Oklahoma. In his report Dr. Reed states that his examination of Plaintiff reveals that Plaintiff "walks with a waddling left leg limp"; that "[t]here is some limited head motion to the right that causes pain in the left shoulder"; that "[h]ead turning to the left is non-limited"; that "[e]xtension causes pain in the left posterior dorsal and cervical area"; that "[f]lexion is non-limited, thoracic outlet maneuvers are negative"; that "[p]eripheral pulsations are adequate"; that "[t]here is no paresis of the upper extremities"; that "[d]eep tendon reflexes are equal bilaterally"; that "[t]here is no objective sensory (sic) deficit"; that "[c]ervical X-rays are satisfactory," and that "[l]aboratory findings are essentially negative."

Dr. Reed further states that Plaintiff's "deep tendon reflexes are bilaterally symmetrical and hyporeactive"; that "[h]e has a positive straight leg raising sign on the left side"; that "[h]e has some SI joints tenderness"; that "[h]is lumbar laminectomy scar is well healed"; that "[n]o gross atrophy was noted in the left lower extremity"; that "[h]e has some weakness in the extensor hallucis longus on the left side and abductors of the left hip." Dr. Reed further states:

We have improved Mr. Howerton's condition to a moderate extent and hope it will continue under treatment.

The condition is quite severe in regards to amount of pain, and at times he returns before his next appointment, however, we have kept him out of the hospital and no surgical interventions has been used which is the longest time span he has experienced since his primary accident.

Diagnosis: Chronic low back pain syndrome
 Post lumbar laminectomy syndrome
 Depression

Percent of disability is 90 percent. Length of disability: There is no reason to expect any change in the immediate future.

(Tr. 256). Dr. Reed's "prognosis" for Plaintiff "is fair to good depending upon many factors" with the "[l]ength of treatment ... impossible to determine at the present time." Dr. Reed further states that from the "four (4) consultation examinations during the time [Plaintiff] has been under treatment here and the general consensus is conservative therapy as long as possible." (Tr. 257).

Appearing at Pages 258-264 are records of the Veterans Administration Regional Office, Muskogee, Oklahoma dated April 21, 1982. The records show that Plaintiff had a physical examination on April 16, 1982 with the examining physician shown as H. Halaswany, M.D. Dr. Halaswany's diagnosis states: "Low back pain, cervical pain, post Laminectomy, definite weakness of the left upper and lower extremity with neurological impingment in the cervical area. The patient in my opinion has an organic nerve entrapment and degenerative changes in the cervical spine and also has a true lower back problem." The report further states:

[Plaintiff] has marked spasm of the cervical muscles, especially on the left side. The muscles are all standing up and they are painful and tender on palpation. He also has lumbo-sacral spasm which is not as marked as the the cervical area but he does have some spasm there too. He has a 6 inch laminectomy scar in the lumbo-sacral area which is well healed with no disfigureing (sic) scar.

The range of movement in the cervical area: flexion forward limited to 10 degrees, extension backward limited to 20 degrees, lateral flexion limited to 10 degrees and rotation markedly painful and limited to less than 10 degrees. The range of movement in the lumbar area: flexion forward is limited to 20 degrees,

extension backward is limited to 10 degrees, lateral flexion is limited to 20 degrees and rotation practically none.

At Pages 265-266 of the Transcript is a Veterans Administration "Rating Decision" dated May 11, 1982, signed by John R. Rafter, M.D. The decision states that Plaintiff's "[d]isabilities are of such severity as to preclude future employment in some form other than marginal in nature that Plaintiff has "40% SEVERE LIMITATION OF MOTION OF LUMBOSACRA SPINE [AND] 30% SEVERE LIMITATION OF MOTION OF CERVICAL SPINE." (Tr. 266).

At pages 322-328 are records of Oklahoma Osteopathic Hospital which include medical reports of James D. Harris, D.O., for the periods August 11, 1980, August 12, 1980, April 23, 1981 and October 5, 1981. In his report of April 23, 1981, Dr. Harris states:

We would like to get this patient involved in a wholistic type of pain care clinic such as with Dr. Norman Shirley at La Cross, Wisconsin. If there is anything closer than that, I would recommend it. He has been to every conceivable place and he needs to go to a place that would evaluate him and work with his pain problems. I feel he is at a complete standstill in his life and he is only 35 years old and he is completely non-functional in reference to vocational and recreational activities. He is living around his pain and does not have direction to his life.

(Tr. 322).

Judicial review of the Secretary's denial of Social Security Disability Benefits is limited to a consideration of the pleadings and the transcript filed by the Secretary as required by 42 U.S.C. § 405(g), and is not a trial de novo, Atteberry v. Finch, 424 F.2d 36 (10th Cir. 1954); Hobby v. Hodges, 215 F.2d 754 (10th Cir. 1954). The findings of the Secretary and the inferences to be drawn therefrom are not to be disturbed by the Courts if there

is substantial evidence to support them. 42 U.S.C. § 405(g); Bradley v. Califano, 593 F.2d 28 (10th Cir. 1978); Atteberry v. Finch, 424 F.2d at 38. Substantial evidence has been defined as: "'more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" Richardson v. Perales, 402 U.S. 389, 401, citing Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938). It must be based on the record as a whole. See Glasgow v. Weinberger, 405 F.Supp. 406, 408 (E.D. Cal. 1975). In National Labor Relations Board v. Columbian Enameling & Stamping Co., 306 U.S. 292, 300 (1939), the Court, interpreting what constitutes substantial evidence, stated:

It must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.

Cited in Atteberry v. Finch, 424 F.2d at 39; Gardner v. Bishop, 362 F.2d 917 (10th Cir. 1966). See also Haley v. Cellebrezze, 351 F.2d 516 (10th Cir. 1965); Folsom v. O'Neal, 250 F.2d 946 (10th Cir. 1957).

A person is considered to be "disabled" if such person is unable "to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment ... which has lasted or can be expected to last for a continuous period of not less than 12 months." 42 U.S.C. §§ 416(i)(1)(A), 423(d)(1)(A). "[A]n individual ... shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful

work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. ..." 42 U.S.C. §§ 423(d)(2)(A). Heckler v. Campbell, ____ U.S. ____, 103 S.Ct. 1952 (1983).

20 CFR §§404.1572 and 416.972 define "substantial gainful activity" as "work activity that is both substantial and gainful:

(a) Substantial work activity. Substantial work activity is work activity that involves doing significant physical or mental activities. Your work may be substantial even if it is done on a part-time basis or if you do less, get paid less, or have less responsibility than when you worked before.

(b) Gainful work activity. Gainful work activity is work activity that you do for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized."

In Broadbent v. Harris, 698 F.2d 407, 412 (10th Cir. 1983), the Court stated:

The major tenets of law that have been distilled from the cases decided on this issue are best summarized in Allen v. Califano, 613 F.2d 139 6th Cir., 1980.

1. The burden of proof in a claim for Social Security benefits is upon the claimant to show disability which prevents (him) from performing any substantial gainful employment for the statutory period. Once, however, a prima facie case that claimant cannot perform (his) usual work is made, the burden shifts to the Secretary to show that there is work in the national economy which (he) can perform. (Citations omitted.)

2. Convincing proof, consisting of lay testimony supported by clinical studies and medical evidence, that pain occasions a claimant's inability to perform his or her usual work is sufficient to make a prima facie case. (Citations omitted.)

3. In determining the question of substantiation of evidence, the reports of physicians who have treated a patient over a period of

time or who are consulted for purposes of treatment are given greater weight than are reports of physicians employed and paid by the government for the purpose of defending against a disability claim. (Citations omitted.)

4. Substantiality of evidence must be based upon the record taken as a whole. (Citations omitted)

The grid regulations of the Social Security Administration, 20 CFR §§ 404.1501, et seq. (1982), provide for the sequential evaluation of disability. The first step in evaluating disability concerns whether the claimant is working and whether the work he is doing is "substantial gainful activity." 20 CFR § 404.1520(b) (1982). If it is found that claimant is engaged in substantial gainful employment, the claim is denied without reference to the subsequent steps in the sequence. If claimant is not so employed, the second inquiry is whether claimant has "any impairment(s) which significantly limits [claimant's] physical or mental ability to do basic work activities." 20 CFR § 404.1520(c) (1982). If claimant is found to have no "severe impairment", the claim is denied. If the ALJ finds a claimant has a "severe impairment", the third step must be followed, which is whether such impairment meets or equals one of the "Listing of Impairments" set forth in the tables in Appendix 1 of the regulations. If the impairment meets or equals any of those listed in the table(s), the claim is approved. 20 CFR § 404.1520(d) (1982) If the impairment does not, the fourth step is considered, which requires the ALJ to "then review [claimant's] residual functional capacity and the physical and mental demands of the work [claimant has] done in the past," and if claimant "can still do this kind of work" the claim is denied. 20

CFR § 404.1520(e) (1982). If claimant is found not capable of returning to his past work, the fifth step must be followed, which requires the ALJ to "consider [claimant's] residual functional capacity and [his] age, education, and past work experience to see if [he] can do other work." 20 CFR § 404.1520(f) (1982). If claimant is not able to perform "other work", the claim is approved.

20 CFR § 404.1521 states that "[a]n impairment is not severe if it does not significantly limit [claimant's] physical or mental abilities to do basic work activities. . . . Basic work activities . . . mean(s) the abilities and aptitudes necessary to do most jobs. Examples of these include . . . (1) [p]hysical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling; . . . (2) Capacities for seeing, hearing, and speaking; (3) Understanding, carrying out, and remembering simple instructions; (4) Use of judgment; (5) Responding appropriately to supervision, co-workers and usual work situations; and (6) Dealing with changes in a routine work setting."

In Brady v. Heckler, 724 F.2d 914 (11th Cir. 1984), the Court stated that "[i]n an action seeking disability benefits, the burden is upon the claimant to demonstrate the existence of a disability as defined by the Social Security Act." The Court further stated that "[t]he key point then becomes what is meant by a severe impairment." (Id. at 918). After discussing the regulations concerning the definition of a severe impairment, the Court stated that "[t]hrough the 1968, 1978, and 1980 regulations used different words to describe severe impairment, it is clear

from an analysis of the cases that the definition of severe impairment has not changed throughout the years." (Id. at 919).

The Court further noted:

In a document entitled "Appeals Council Review and Sequential Evaluation Under Expanded Vocational Regulations," attached to a January 30, 1980, memorandum from the Appeals Council regarding its cumulative findings on appraisal of appealed cases during 1979, the Appeals Council set forth its policy regarding findings of severe or not severe:

The Appeals Council, therefore, specifically considered the issue of when an impairment(s) should be considered as 'not severe' within the meaning of these regulations. The Council concluded in a minute that the definition contained in regulations 404.1503(c) and 416.903(c) was not intended to change, but was merely a clarification of the previous regulatory terms 'slight neurosis, slight impairment of sight or hearing, or other slight abnormality or a combination of slight abnormalities . . .' In other words, an impairment can be considered as 'not severe' only if it is a slight abnormality which has such a minimal effect on the individual that it would not be expected to interfere with the individual's ability to work, irrespective of age, education, or work experience

Appeals Council Review of Sequential Evaluation Under Expanded Vocational Regulations (1980).

(Id. at 919-920). The Court then stated that "[t]he 1980 recodification stated that impairment is not considered severe if it does not significantly limit the claimant's physical or mental ability to do basic work activities"; that "[t]hough the regulation adds new language to the definition of severe impairment, the key point is that . . . the recodification in 1980 evinced no change in expression of the Secretary's intent as to the levels of severity needed for finding of not disabled on the basis of medical considerations alone" and that "[a]n impairment can be considered as not severe only if it is a slight abnormality which has such a minimal effect on the individual that it would not be

expected to interfere with the individual's ability to work, irrespective of age, education, or work experience." (Id. at 920).

In his decision, the ALJ states that he "is convinced that on or before December 31, 1981, the claimant's impairments were not of such severity that he was functionally limited to the extent that he was prevented from engaging in basic-work related activities"; that "[a] careful study of all the available medical evidence reflects no findings of a condition sufficiently severe so as to have precluded all forms of substantial gainful activity for a period of 12 consecutive months on or before December 31, 1981, the date the claimant last met the disability insured status requirements"; and that "[t]herefore, the claimant was not under 'disability', as defined by the Social Security Act, as amended." (Tr. 18).

It is the view of the Court that these findings of the ALJ are not supported by substantial evidence. The medical reports of Dr. Guy D. Reed, D.O., dated June 17, 1981 (Tr. 256-257), Dr. H. Halswany, M.D., dated April 21, 1982, (Tr. 263-264), and James D. Harris, D.O., dated April 23, 1981, (Tr. 322) clearly indicate that Plaintiff does have impairments which significantly limit his physical ability to do basic work activities.

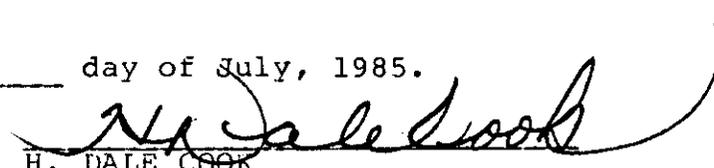
Because the ALJ concluded that Plaintiff "does not have any impairment or impairments which significantly limit his ability to perform basic-work related functions" (Tr. 19), he did not complete the sequential evaluation of disability as required by the grid regulations. As noted above, if the claimant is found not capable of returning to his past work, the fifth step in the

sequential evaluation must be followed. This requires the ALJ to "consider [claimant's] residual functional capacity and [his] age, education and past work experience to see if [he] can do other work." 20 CFR § 404.1520(f) (1982). If the claimant is not able to perform "other work" the claim for disability is approved.

In the instant case the ALJ should have completed the sequential evaluation. Here the record indicates that Plaintiff cannot return to his previous work, and therefore, the burden shifts to the Secretary to show that there is work in the national economy which Plaintiff can perform. Broadbent v. Harris, 698 F.2d 407, 412 (10th Cir. 1983).

Under Title 42 U.S.C. § 404(g), the court may remand the case to the Secretary at any time, on good cause shown, and may order additional evidence to be taken before the Secretary. Because of the nature of Plaintiff's impairments, it is Ordered that the case be remanded to the Secretary for further proceedings, and that the Secretary give consideration to having a vocational expert's testimony concerning employment opportunities for a person with Plaintiff's impairments.

It is so Ordered this 29 day of July, 1985.


H. DALE COOK
CHIEF JUDGE

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EMMETT SMITH,)
)
 Plaintiff,)
)
 vs.)
)
 LYSTADS, INC.,)
)
 Defendant.)

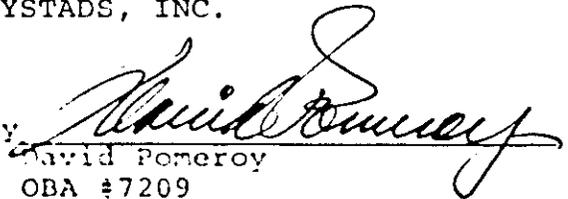
JUL 29 1988

No. 84-C-94-E
JACK G. SMITH, JR.
U. S. DISTRICT COURT

STIPULATION OF DISMISSAL WITH PREJUDICE

Emmett Smith, plaintiff, and Lystads, Inc., defendant, being all of the parties who have appeared in the captioned action, do hereby stipulate and agree to the dismissal of the captioned cause of action with prejudice to the filing of a future action thereon, pursuant to Rule 41, Federal Rules of Civil Procedure.

LYSTADS, INC.

By 
David Pomeroy
OBA #7209

FULLER, TUBB & POMEROY
306 Fidelity Plaza
Oklahoma City, Oklahoma 73102
(405) 235-2575

ATTORNEYS FOR DEFENDANT


Emmett Smith



Ronald E. Berry
426 South Cherokee
Catoosa, Oklahoma 74015
(918) 266-4242

ATTORNEY FOR PLAINTIFF

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 GARY W. MINER,)
)
 Defendant.)

JUL 29 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 85-C-427-E

DEFAULT JUDGMENT

This matter comes on for consideration this _____ day of _____, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Gary W. Miner, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Gary W. Miner, acknowledged receipt of Summons and Complaint on May 12, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Gary W. Miner, for the principal sum of \$1,221.20, plus accrued interest of \$218.42 and administrative costs of \$16.71 as of September 27, 1984, plus interest on the principal sum of \$1,221.20 at 15.05

percent from September 27, 1984, until judgment, plus interest thereafter at the current legal rate of 7.60 percent from date of judgment until paid, plus costs of this action.

ST JAMES O. ELSON
UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA **F I L E D**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JAMES D. MERRYWELL,)
)
 Defendant.)

JUL 29 1985

J. L. Sweet, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 85-C-470-E

DEFAULT JUDGMENT

This matter comes on for consideration this 26 day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Hubert A. Marlow, Assistant United States Attorney, and the Defendant, James D. Merrywell, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, James D. Merrywell, acknowledged receipt of Summons and Complaint on May 21, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, James D. Merrywell, for the principal sum of \$488.33, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 16, 1983, and \$.68 per month from

January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 7.68 percent from date of judgment until paid, plus costs of this action.

S. JAMES O. FLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL 26 1985

Jack L. Smith
U.S. DISTRICT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JERRY A. SMITH,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-422-~~8~~^E

DEFAULT JUDGMENT

This matter comes on for consideration this 25th day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Jerry A. Smith, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Jerry A. Smith, acknowledged receipt of Summons and Complaint on May 7, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Jerry A. Smith, for the principal sum of \$2,510.00, plus accrued interest of \$1,144.34 as of February 22, 1985, plus interest on the

principal sum of \$2,510.00 at 7 percent from February 22, 1985,
until paid, plus costs of this action.

3 JAMES C. ELSON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
RONALD L. STOLTE,)
)
Defendant.)

JUL 26 1985
JACK C. SMITH,
U. S. DISTRICT CLERK

CIVIL ACTION NO. 84-C-961-E

ORDER OF DISMISSAL

Now on this _____ day of July, 1984, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve him have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Ronald L. Stolte, be and is dismissed without prejudice.

S/ JAMES O. ELISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 26 1995

SANGUINE, LTD., an Oklahoma Corporation,

Plaintiff,

v.

TENNECO, INC., a Delaware Corporation, doing business as and through its division, TENNESSEE GAS PIPELINE COMPANY,

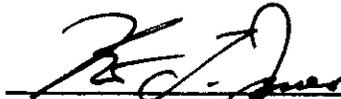
Defendant.

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

No. 84-C-877-E

STIPULATION OF DISMISSAL

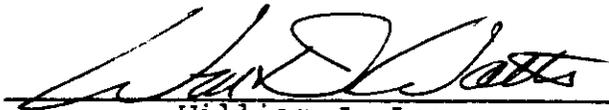
Pursuant to Rule 41(a)(1), Federal Rules of Civil Procedure, the undersigned, being all of the parties who have appeared in this action, stipulate that this action shall be dismissed with prejudice, each party to pay its own costs.



Kent L. Jones
Donald L. Kahl
-of-

HALL, ESTILL, HARDWICK, GABLE,
COLLINGSWORTH & NELSON, P.C.
4100 Bank of Oklahoma Tower
One Williams Center
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(918) 588-2700

ATTORNEYS FOR PLAINTIFF
SANGUINE, LTD.



William J. Legg
William D. Watts
-of-

ANDREWS DAVIS LEGG BIXLER
MILSTEN & MURRAH
500 West Main
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(405) 235-8767

OF COUNSEL:

Terence J. Collins
Mary Pat Wilson

TENNESSEE GAS PIPELINE COMPANY,
a division of TENNECO, INC.
P.O. Box 2511
Houston, Texas 77001
(713) 757-8755

ATTORNEYS FOR DEFENDANT
TENNECO, INC. d/b/a
TENNESSEE GAS PIPELINE COMPANY

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 26 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

KEN CLARK d/b/a CLARK OILFIELD)
MEASUREMENT SYSTEMS,)
)
Plaintiff,)
)
v.)
)
DASCO TECHNOLOGY CORPORATION,)
a Texas corporation,)
)
Defendant.)

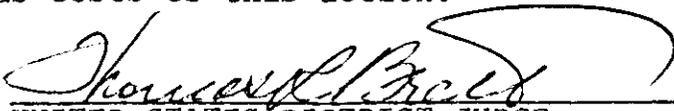
No. 84-C-914 B

DEFAULT JUDGMENT

This matter comes on for consideration this 26 day of July, 1985, the Plaintiff appearing by his attorney, Mark O. Thurston, and the Defendant, Dasco Technology Corporation, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Dasco Technology Corporation was served with Summons and Complaint on March 13, 1985 by service on its president, Gaylord M. Karren. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against the Defendant, Dasco Technology Corporation, for the principal sum of \$41,664.39, plus interest at the rate of 18.00 percent per annum from November 1, 1984 until paid, an attorney fee of \$1,083.00, plus costs of this action.


UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 THOMAS M. BURGER,)
)
 Defendant.) CIVIL ACTION NO. 85-C-370-E

FILED
JUL 26 1985
J. R. G. S. S. S., Clerk
U. S. DISTRICT COURT

DEFAULT JUDGMENT

This matter comes on for consideration this _____ day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Thomas M. Burger, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Thomas M. Burger, was served with Summons and Complaint on May 30, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Thomas M. Burger, for the principal sum of \$413.55, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 24, 1983, and \$.68 per month from January 1, 1984, until judgment, plus interest thereafter at the current

legal rate of 7.60 percent from date of judgment until paid,
plus costs of this action.

BY JAMES C. SMITH

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PHOENIX COAL COMPANY, INC.,

Plaintiff,

vs.

DONALD P. HODEL, SECRETARY
OF INTERIOR, THE UNITED
STATES DEPARTMENT OF THE
INTERIOR, OFFICE OF SURFACE
MINING,

Defendants.

No. 85-C-281-E

FILED

JUL 26 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

There being no response to the Defendants' motion to dismiss and more than ten (10) days having passed since the filing of the motion and no extension of time having been sought by Plaintiff the Court, pursuant to Local Rule 14(a), as amended effective March 1, 1981, concludes that Plaintiff has therefore waived any objection or opposition to the motion. See Woods Constr. Co. v. Atlas Chemical Indus., Inc., 337 F.2d 888, 890 (10th Cir. 1964).

The Defendants' motion to dismiss is therefore granted.

DATED this 25th day of July, 1985.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

FILED

JUL 26 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ALAN R. SMITH,)
)
 Plaintiff,)
)
 vs.)
)
 CONNECTICUT GENERAL)
 INSURANCE COMPANY, a)
 foreign corporation,)
)
 Defendant.)

No. 84-C-424-E

JUDGMENT

Upon application and representation of the parties that after discovery and after examination of the law, there is no basis for Plaintiff to prevail on the Complaint herein, and that it is, therefore, agreed that judgment should be taken against Plaintiff,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment be entered against the Plaintiff and in favor of the Defendant and that Plaintiff take nothing by reason of the Complaint on file herein.

JAMES C. FUSCO

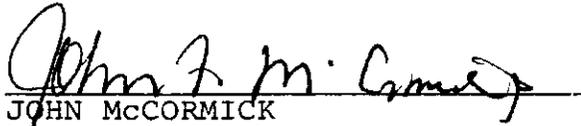
UNITED STATES DISTRICT JUDGE

APPROVED:

Elsie Draper

ESSIE DRAPER
GABLE & GOTWALS
20th Floor, Fourth National
Bank Building
Tulsa, Oklahoma 74119
(918) 582-9201

ATTORNEYS FOR DEFENDANT
CONNECTICUT GENERAL INSURANCE
COMPANY



JOHN McCORMICK

PRAY, WALKER, JACKMAN,

WILLIAMSON & MARLAR

2200 Fourth National Bldg.

Tulsa, Oklahoma 74119

ATTORNEYS FOR PLAINTIFF

ALAN R. SMITH

Entered

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 26 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

LINDA S. HAZEL,)
)
Plaintiff,)
)
vs.)
)
ROADWAY EXPRESS, INC., a)
Delaware Corporation,)
and PROTECTIVE INSURANCE)
COMPANY, an Indiana)
Corporation,)
)
Defendants.)

No. 84-C-375-E

DISMISSAL WITH PREJUDICE

NOW on this 26 day of July, 1985, comes on for hearing before me, the United States District Judge for the Northern District of Oklahoma, upon Plaintiff Linda S. Hazel's Application To Dismiss Case No. 84-C-375-E with prejudice to her right to refile.

The Court having been fully advised by the parties that a settlement has been reached in this matter dismisses the cause with prejudice to the right of Linda S. Hazel to refile.

S/ JAMES Q. ELLISON

United States District
Judge For The Northern
District of Oklahoma

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 26 1985

JACK C. SILVER, CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 STEVEN L. WOODARD,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-336-C

DEFAULT JUDGMENT

This matter comes on for consideration this 26th day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Steven L. Woodard, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Steven L. Woodard, was served with Summons and Complaint on May 16, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Steven L. Woodard, for the principal sum of \$1,258.61, plus accrued interest of \$288.82 and administrative costs of \$18.66 as of February 15, 1985, plus interest on the principal sum of

\$1,258.61 at 15.05 percent from February 15, 1985, until judgment, plus interest thereafter at the current legal rate of 7.60 percent from date of judgment until paid, plus costs of this action.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 26 1985

JEROME C. DOZIER,
Plaintiff,

vs.

JOHN L. LONG,
Defendant.

Jack C. Siver, Clerk
U. S. DISTRICT COURT

No. 85-C-446-E

O R D E R

NOW on this 25th day of July, 1985 this matter comes before the Court upon the motion of Defendant John Long to dismiss, and the motion of Plaintiff Jerome Dozier to dismiss without prejudice.

Upon the request of the Plaintiff that this Court dismiss his action without prejudice for the reason that the proper forum for his complaint would be the courts of the State of Oklahoma, the Court finds that the same should be dismissed.

IT IS THEREFORE ORDERED AND ADJUDGED that the motion of Plaintiff to dismiss without prejudice be and the same is hereby granted.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 26 1985

EMPIRE PLUMBING SUPPLY, INC.,
an Oklahoma corporation,

Plaintiff,

vs.

MILLER-STAUCH CONSTRUCTION
CO., INC., a foreign
corporation, and UNITED
STATES FIDELITY AND
GUARANTY COMPANY, a
Maryland Corporation,

Defendants,

vs/

GREENWOOD MECHANICAL, INC.,
a Missouri Corporation,
a/k/a GREENWOOD PLUMBING,

Third Party Defendant.

Jack C. Sney, Clerk
U. S. DISTRICT COURT

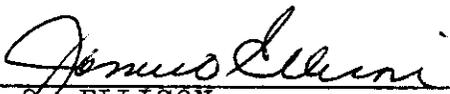
No. 84-C-967-E

DEFAULT JUDGMENT

This action came on for hearing before the Court on the application for default judgment of the Plaintiff, and after reviewing the file and the affiavit of David H. Sanders, attorney for Plaintiff,

IT IS ORDERED AND ADJUDGED that the Plaintiff, Empire Plumbing Supply, Inc., an Oklahoma corporation, recover of the third party Defendant, Greenwood Mechanical, Inc., a Missouri Corporation, a/k/a Greenwood Plumbing, the sum of \$30,182.61, with interest at the rate of 18% per annum from March 18, 1985 until date of judgment, plus post judgment interest of 7.60% plus costs of this action.

DATED at Tulsa, Oklahoma this 25th day of July, 1985.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 25 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
RONALD DANIELS,)
)
Defendant.)

CIVIL ACTION NO. 85-C-126-C

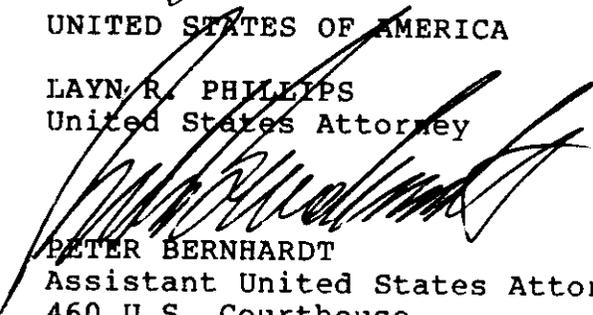
NOTICE OF DISMISSAL

COMES NOW the United States of America by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Peter Bernhardt, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 25th day of July, 1985.

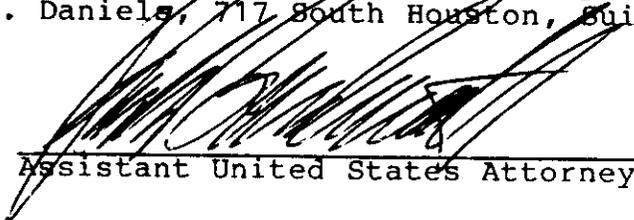
UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


PETER BERNHARDT
Assistant United States Attorney
460 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 25th day of July, 1985, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Ronald L. Daniels, 717 South Houston, Suite 407, Tulsa, Oklahoma 74127.


Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 25 1985

Jack U. Smith, Clerk
U. S. DISTRICT COURT

PAN WESTERN ENERGY CORPORATION,
an Oklahoma corporation,
Plaintiff,

-vs-

MR. RONALD R. BROADWAY, individually,
and BEDCO PROPERTIES, INC., a
Texas corporation,
Defendants,

Case No. 85-C-464-E

NOTICE
DISMISSAL WITHOUT PREJUDICE
BY PLAINTIFF

To: Bedco Properties, Inc., and
Mr. Ronald R. Broadway
1150 Campbell Centre
8250 No. Central Expwy
Dallas, Texas 75206

Notice is hereby given that Pan Western Corporation, the above-named Plaintiff, elects to dismiss, without prejudice, the above-entitled action pursuant to Rule 41 (a) (1) of the Federal Rules of Civil Procedure and hereby file this Notice of Dismissal Without Prejudice before service by the adverse party of either an Answer or a Motion for Summary Judgment.

Dated this 25th day of July, 1985.

ORIGINAL SIGNED BY

James R. Gotwals

James R. Gotwals, OBA#3499
James R. Gotwals & Associates
Attorney for the Plaintiff
Pan Western Energy Corp.
525 So. Main, Suite 201
Tulsa, OK 74103
(918) 599-7088

CERTIFICATE OF MAILING

The undersigned does hereby certify that on the 25th day of July, 1985, a true and correct copy of the above and foregoing DISMISSAL WITHOUT PREJUDICE BY PLAINTIFF to Bedco Properties, Inc., 1150 Campbell Centre, 8250 North Central Expressway, Dallas, Texas 75206, with proper postage thereon fully prepaid.

CERTIFICATE SIGNED BY

James R. Gotwals

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 25 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

JUNIOR G. CARTER and)
MAXINE L. CARTER,)

Plaintiffs,)

vs.)

HARNISCHFEGER CORPORATION,)
a foreign corporation)
incorporated in the State of)
Delaware;)

Defendant.)

No. 84-C-232-B

ORDER OF DISMISSAL WITH PREJUDICE

It appearing to the Court that the above entitled action has been fully settled and compromised between the parties, and based upon the Stipulation filed in the matter;

IT IS ORDERED, ADJUDGED AND DECREED that the above entitled action be, and it is hereby, dismissed, without cost to either party, and with prejudice to the Plaintiffs.

DATED this 25th day of July, 1985.


UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 25 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 CHARLES V. COLEMAN, a/k/a)
 CHARLES VERNON COLEMAN,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-339-B

AGREED JUDGMENT

This matter comes on for consideration this 25th day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Charles V. Coleman, a/k/a Charles Vernon Coleman, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that Defendant, Charles V. Coleman, a/k/a Charles Vernon Coleman, acknowledged receipt of Summons and Complaint on April 22, 1985. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount of \$4,488.09 (less the sum of \$180.00 which has been paid), plus the accrued interest of \$354.67 as of March 11, 1985, plus interest at 3 percent per annum from March 11, 1985, until judgment, plus interest thereafter at the legal rate from the date of judgment until paid, plus the costs of this action.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Charles V. Coleman, a/k/a Charles Vernon Coleman, for the principal sum of \$4,488.09 (less the sum of \$180.00 which has been paid), plus the accrued interest of \$354.67 as of March 11, 1985, plus interest at 3 percent per annum from March 11, 1985, until judgment, plus interest thereafter at the current legal rate of _____ percent from the date of judgment until paid, plus the costs of this action.

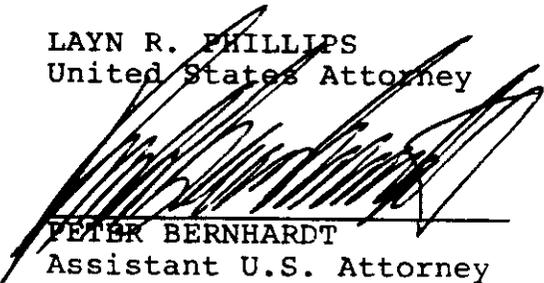
S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

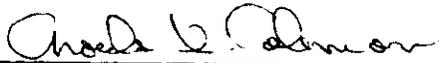
APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



PETER BERNHARDT
Assistant U.S. Attorney



CHARLES V. COLEMAN, a/k/a
CHARLES VERNON COLEMAN

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 25 1985

UNITED STATES OF AMERICA,)
and ROBERT BLAIR,)

Plaintiffs)

v.)

E. LIGE JOICE, and HELEN B.)
JOICE)

Defendants)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL NO. 85-C-494-E

STIPULATION OF DISMISSAL

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii),
it is hereby stipulated and agreed by the parties that this
action and the plaintiffs' Complaint should be, and hereby
is, dismissed, without prejudice, with each of the parties
to bear its own costs, fees and expenses.

SO STIPULATED.

FOR THE PLAINTIFFS:

Mary Vance
MARY VANCE
Attorney, Tax Division
Department of Justice
1100 Commerce St., Rm. 5B31
Dallas, Texas 75242

FOR THE DEFENDANTS:

E. Lige Joice
E. LIGE JOICE
4630 W. Brady
Tulsa, Oklahoma 74127

Helen B. Joice
HELEN B. JOICE
4630 W. Brady
Tulsa, Oklahoma 74127

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
and ROBERT BLAIR,)	
)	
Plaintiffs)	
)	
v.)	CIVIL NO. 85-C-494-E
)	
E. LIGE JOICE, and HELEN B.)	
JOICE)	
)	
Defendants)	

AFFIDAVIT

We, E. LIGE JOICE and HELEN B. JOICE, being first
duly sworn, under penalty of perjury, hereby depose and
say:

1. The Common Law Lien filed in Book 4781 page 1125
of the Tulsa County Records has no force or effect upon the
property owned by Robert Blair.

2. Affiants have in no way attempted to incumber the
property of Robert Blair.

Further Affiants saith not.

E. Lige Joice
E. LIGE JOICE

HELEN B. JOICE
HELEN B. JOICE

Subscribed and sworn to before me this 10th day of
July, 1985 at Tulsa County, Oklahoma.

Betty M. Korb
Notary Public, State of Oklahoma

My commission expires:
April 25, 1988

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that the foregoing Stipulation of Dismissal has been made on the 23rd day of July, 1985, by mailing a copy thereof to:

E. Lige Joice
4630 W. Brady
Tulsa, Oklahoma 74127

Helen B. Joice
4630 W. Brady
Tulsa, Oklahoma 74127

Mary C. Vance
MARY C. VANCE

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 25 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ROBERT J. ZANI,)
)
Plaintiff,)
)
v.)
)
FRANK THURMAN, ART LEE,)
TOM FLEISCHMAN, and)
AGENTS UNKNOWN,)
)
Defendants.)

NO. 83-C-329-BT

O R D E R

This matter comes before the Court on defendants' motion to dismiss pursuant to F.R.Civ.P. 12(b)(1) and (6). For the reasons set forth below, defendants' motion is sustained as to Counts 1, 3, 4, 5, and 7, but is overruled with regard to Counts 2 and 6 and plaintiff's charge of having been assaulted by deputy sheriffs.

In order to prevail on a motion to dismiss, defendant must establish plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Haines v. Kerner, 404 U.S. 519 (1972). In deciding the motion, the Court must assume the allegations contained in the complaint are true. Gardner v. Toilet Good Ass'n., 387 U.S. 167 (1957).

Plaintiff was taken into custody by the Tulsa County Sheriff on May 4, 1982 to face prosecution for murder in the District Court of Tulsa County, Oklahoma. Plaintiff was previously being held in custody by the Texas Department of Corrections in Huntsville, Texas, having been tried and convicted of murder in

the State of Texas. Plaintiff was held in the Tulsa County Jail until January 10, 1983.

Plaintiff's first cause of action is based on his asserted right "not to have my name forged on any documents or papers, of any nature, by any employee of the Tulsa County Sheriff's department." He specifically alleges that a deputy sheriff signed the return receipt on a certified letter delivered to plaintiff on December 27, 1982 and that because of this practice he has no way of knowing how much additional mail was similarly accepted but never delivered. Plaintiff's claim that the jail might have received mail never delivered to him is entirely speculative and must be dismissed. In response to the specific allegation of a deputy sheriff having signed the return receipt on a certified letter addressed to plaintiff, defendants state that it is jail policy for a jailer or staff member to sign the signature line on incoming certified mail. To allow a postman into the jail to obtain inmates' signatures would pose a security risk. Plaintiff would presumably have the jailers bring the certified mail to him for his personal signature, arguing he has a constitutional right to sign the return receipt on certified mail addressed to him. The general rule is that the regulation of the flow of mail from a penal institution is essentially an administrative matter for jail officials and is not subject to judicial review except under the most unusual circumstances. Evans v. Moseley, 455 F.2d 1084,1087 (10th Cir. 1972). Though the case at bar concerns mail flowing to the penal institution,

the Court holds the general rule applies here as well. Plaintiff's first cause of action is dismissed.

Plaintiff's Second Cause of Action. Plaintiff allegedly arrived at the Tulsa County Jail with two large boxes of legal materials in his possession. The boxes were seized and were allegedly not returned for approximately ten days. In addition, plaintiff contends someone then stole certain documents--namely, signed statements of one of the state's witnesses. An inmate's legal materials may be examined by jail authorities to detect contraband. Seale v. Manson, 326 F.Supp. 1375 (D.Conn. 1971). However, plaintiff's allegations of theft of certain legal documents may state a cause of action under §1983 for wrongful confiscation of property without due process of law. Carter v. Estelle, 519 F.2d 1136 (5th Cir. 1975). Defendant makes no claim plaintiff failed to exhaust available administrative remedies. Parratt v. Taylor, 451 U.S. 527 (1981).

Plaintiff's third cause of action is predicated upon an alleged denial of religious freedom. Defendants moved to dismiss Count III and briefed the issue but plaintiff has failed to respond. The motion to dismiss as to plaintiff's third cause of action is hereby deemed confessed pursuant to Rule 14(a) of the United States District Court for the Northern District of Oklahoma.

Plaintiff's fourth cause of action alleges a denial of free speech, equal protection and due process stemming from an alleged denial of access to the news media. Prisoners do not have a

right to interviews with members of the press when they have alternative channels of communication available. Pell v. Procunier, 417 U.S. 817 (1974). Defendants contend members of the media were allowed to visit plaintiff at the Tulsa County Jail and point out plaintiff does not allege that any member of the press was ever denied visiting privileges. Instead, plaintiff's fourth cause of action is predicated "on the fact that the Defendants refused to let [plaintiff] talk with any member of the media, either on his way to Court, outside the courtroom or inside the courtroom..." Here, plaintiff was denied interviews with the press only when entering, within, or leaving a courtroom. Given legitimate security considerations, this reasonable restriction did not violate plaintiff's rights to free speech. The fourth cause of action must be dismissed.

Plaintiff's fifth cause of action concerns the allegedly illegal arrest of plaintiff by employees of the Tulsa County Sheriff's Department. Plaintiff contends that "by Oklahoma law, plaintiff could not be charged with 1st degree homicide as falsely alleged by the arrest warrant and documents used to arrest and hold plaintiff." Plaintiff was eventually convicted of murder in the second degree. Defendant arresting officer (an "unknown agent") was performing a nondiscretionary, ministerial function mandated by judicial process when he took custody of plaintiff from the Texas Department of Corrections. Assuming without deciding that plaintiff was improperly taken into custody on charges of first degree murder, defendants would still be

entitled to quasi-judicial immunity for merely taking plaintiff into temporary custody for the purposes of trial in Oklahoma under the direction of the District Court of Tulsa County, Oklahoma. International Molders and Allied Workers v. Buchanan Lumber, Birmingham, 459 F.Supp. 950 (N.D.Ala. 1978), aff'd 618 F.2d 782 (5th Cir. 1980); Salvati v. Dale, 364 F.Supp. 691 (D.Pa. 1973). The fifth cause of action is therefore dismissed.

Plaintiff's sixth cause of action charges unlawful detention and a violation of his Eighth Amendment right against cruel and unusual punishment. Plaintiff contends he was held in excess of the speedy trial limitations of the Interstate Agreement on Detainers, that he was held in isolation in excess of six months prior to trial, that his request to be removed from isolation was somehow interpreted as a request to remain in isolation so as to prepare for his pro se trial defense, and that other unspecified conditions at the Tulsa County Jail constituted cruel and unusual punishment. As outlined above, defendants are entitled to quasi-judicial immunity on plaintiff's charges relating to length of detention beyond that allowed by the Interstate Agreement. However, conditions of confinement can constitute cruel and unusual punishment. Plaintiff has thus stated a cause of action under his sixth claim for relief relating to conditions of confinement. As for the unspecified conditions constituting cruel and unusual punishment, the Court would note that plaintiff (incarcerated at the Tulsa County Jail between May 4, 1982 and January 10, 1983) is among the class of plaintiffs whose Eighth

Amendment constitutional claims are covered by the Court's Findings of Fact and Conclusions of Law entered August 2, 1983 in Clayton, et al., v. Thurman, et al., Case No. 79-C-723.

Under his seventh cause of action, plaintiff alleges defendants' aforementioned conduct impaired plaintiff's right to fair pre-trial proceedings, exacerbated the District Attorney's malicious prosecution of plaintiff, and constituted malicious prosecution in and of itself. Plaintiff does not contend defendants conspired with the District Attorney or others to impair plaintiff's right to an impartial trial. Plaintiff's claims of malicious prosecution and exacerbation of malicious prosecution fails to state a claim against defendant Sheriff and deputies. A malicious prosecution action requires that defendant must have instituted a criminal action against the plaintiff. Dellums v. Powell, 566 F.2d 167 (D.C.Cir. 1977). The allegations herein merely indicate defendants confined plaintiff at the direction of the state district court. Plaintiff's claim that defendants impaired his right to fair pre-trial proceedings by taking actions "designed only to interfere with plaintiff's pro se right to self-representation", is merely a blanket restatement of plaintiff's previously mentioned grievances. Plaintiff attempts to create a new umbrella "right to fair pre-trial proceedings" by lumping together all of the "preceeding Unconstitutional, contrived actions, geared only to convict plaintiff." Plaintiff's blanket claim is uncognizable and must be dismissed.

Plaintiff makes one further claim which is not numbered as a separate cause of action. He claims he was assaulted by sheriff's employees on four separate occasions. Defendants apparently overlooked the allegation and did not mention it in their motion to dismiss. The Court concludes this allegation would be properly considered under plaintiff's sixth cause of action relating to alleged violations of his Eighth Amendment rights.

For the foregoing reasons, plaintiff's first, third, fourth, fifth, and seventh causes of action are dismissed. Plaintiff's second cause of action remains as to his allegations of wrongful confiscation or theft of certain legal documents. Plaintiff's sixth cause of action remains as to his allegations of assault by sheriff's employees and as to his allegations of cruel and unusual punishment by being placed in isolation in excess of six months.

The parties are to exchange the names and addresses of all witnesses, including experts, in writing, along with a brief statement of each witness' expected testimony by October 2, 1985.

Final pretrial conference is set for 9:00 a.m., October 9, 1985.

The parties are granted until October 16, 1985 in which to complete discovery.

The parties are to exchange exhibits and file an agreed pretrial order by October 23, 1985.

The case is set for trial on November 6, 1985 at 9:00 A.M.

IT IS SO ORDERED this 25 day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL 24 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

THOMAS M. WEATHERLY,)
)
 Plaintiff,)
)
 v.)
)
 MARGARET M. HECKLER, Secretary)
 of the Department of Health)
 and Human Services,)
)
 Defendant.)

No. 84-C-140-E

ORDER REMANDING CASE
TO DEFENDANT FOR FURTHER PROCEEDINGS

Plaintiff brought this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g) (1976), for judicial review of a final decision of the Secretary of Health and Human Services (Secretary) denying his claim for social security benefits under §§ 216(i) and 223(d) of Title II of the Act, 41 U.S.C. §§ 416(i) and 426(d) (1976 and Supp. III, 1979).

After the matter was referred to the Magistrate for Findings and Recommendations, the Magistrate entered a minute on April 23, 1985 recommending that the Court remand the case to the Secretary for further proceedings. The Magistrate's term ended on July 7, 1985, before the Magistrate had completed and filed written findings and recommendations. The Court has, therefore, considered the file, the transcript of the proceedings before the Secretary, and the briefs of the parties, and has concluded that the case should be remanded to the Secretary for further proceedings.

Plaintiff filed his application for disability benefits on November 30, 1982, in which he claims he became unable to work on

November 10, 1981, because of "3 heart attacks." (Tr. 34) Plaintiff's application was denied administratively, both initially and on reconsideration, after a physician and a disability examiner evaluated the evidence and determined that Plaintiff was not disabled within the meaning of the Act. (Tr. 40-41, 43-44).

Plaintiff then requested a hearing before an Administrative Law Judge (ALJ). A hearing was scheduled for June 30, 1983, at which time Plaintiff's attorney appeared and stated that Plaintiff was unable to attend because Plaintiff's doctor advised Plaintiff that it would be detrimental to his health. At the request of Plaintiff's attorney, the hearing was rescheduled for July 6, 1983. However, on July 5, 1983, Plaintiff's attorney advised Administrative Law Judge John M. Slater that Plaintiff's doctor "told her that under no circumstances should Plaintiff be allowed to appear for a hearing" because Plaintiff's "disability was angina related to stress over his physical condition and [his] inability to engage in any activity without experiencing chest pain." (Tr. 15). Plaintiff's attorney requested that the ALJ render his decision based on the evidence in Plaintiff's file.

The ALJ found that Plaintiff "was not under a 'disability' as defined in the Social Security Act, at any time through the date of [his] decision [September 20, 1983]" and "is not entitled to a period of disability or disability insurance benefits" under the Act. (Tr. 22). Plaintiff then requested a review of the ALJ's decision by the Appeals Council, and on January 25, 1984,

the Appeals Council denied Plaintiff's appeal, and the decision of the ALJ became the final decision of the Secretary. (Tr. 5-6).

Appearing at Pages 104 through 185 of the Transcript are records of Hillcrest Medical Center covering Plaintiff's hospitalization for the periods November 10, 1981 through November 22, 1981, November 29, 1981 through December 10, 1981, December 14, 1981 through December 19, 1981 and January 6, 1982 through January 7, 1982. As reflected in the Medical Report of Ambrose A. Solano, M.D., dated January 8, 1982 Plaintiff was hospitalized because he "had sustained a subendocardial myocardial infarction." (Tr. 186). Dr. Solano further states in his report that Plaintiff "underwent cardiac catheterization which reveal[ed] significant coronary artery disease"; that "three vessel coronary artery bypass surgery" was performed on Plaintiff during his period of hospitalization commencing November 29, 1981 and ending December 10, 1981; that Plaintiff's "postoperative course was complicated by an early myocardial infarction"; that Plaintiff "had further complications by development of left pneumothorax and an episode of atrial fibrillation"; and that Plaintiff experienced further complications resulting in additional periods of hospitalization on December 14, 1981 and January 5, 1982. Dr. Solano further states in his report as follows:

In conclusion, this is a 41 year old white male who has a significant coronary artery disease. He has had a very complicated postoperative course as manifested by myocardial infarction, postcardiotomy syndrome with pericardial effusion, and atrial arrhythmias. In light of above, it is anticipated that the patient will have a prolonged recovery in that he should be disabled for greater (sic) than twelve months. (Tr. 187).

At Pages 188-189 is a medical report of Ambrose A. Solano, M.D., dated March 10, 1982, in which Dr. Solano states, inter alia, that Plaintiff is "probably going to be disabled for quite some time"; that "[h]e's not just a routine post . . . cardiac bypass surgery patient . . . he's had multiple complications following his bypass," and that his "[p]rogress is going to be slow."

Appearing at Page 190 of the Transcript is a medical report of Dr. Amrose A. Solano dated March 18, 1982, in which Dr. Solano states that Plaintiff has been a patient of his since August 17, 1981. Dr. Solano describes Plaintiff's hospitalization commencing on November 10, 1981, his bypass surgery and complication following that surgery, and further states that "[i]n light of the multiple complications post-coronary bypass surgery, and the fact that the [Plaintiff] has severe distal vessel disease, . . . the [Plaintiff's] prognosis is very guarded," and that "[Plaintiff] would be disabled for at least twelve months and probably indefinitely."

Appearing at Pages 231-241 is a medical report of Dr. Ambrose A. Solano dated November 22, 1982, in which Dr. Solano states:

In summary, this gentleman has had triple vessel coronary artery bypass surgery with evidence of severe distal vessel disease at the time of surgery. He does have occassions (sic) where he is bothered with exertional related chest pain. It is felt that the patient's prognosis is very guarded and, because of this, he should be considered totally disabled.

At Pages 242-243 is a medical report of Michael Farrar, D.O., in which Dr. Farrar indicates he examined Plaintiff on January 12, 1983 for purposes of evaluating Plaintiff for Social

Security Disability. From his examination Dr. Farrar states as follows: "IMPRESSION: 1. Moderate coronary artery disease with angina pectoris. 2. Post coronary artery bypass surgery."

At Page 244 of the Transcript is a medical report of Dr. Ambrose A. Solano dated March 3, 1983, in which Dr. Solano states that he last examined Plaintiff on January 28, 1983 in connection "with some complaints consistent with acute bronchitis"; that Plaintiff "also relayed the information that he continues to get exertional related chest pain which appeared to be relieved after two to three nitroglycerine"; that "[e]xamination on that day revealed no change from previous examinations"; that Plaintiff has "significant artery disease and severe distal vessel disease noted at the time of surgery"; that Plaintiff "continues to have exertional related chest pains," and "that Plaintiff "is probably a Functional Class Two to Three."

At Pages 246-247 is a medical report of Dr. Ambrose A. Solano dated June 28, 1983. Dr. Solano states, inter alia, as follows:

. . . it is my impression that Mr. Weatherly has severe distal vessel coronary artery disease and remains symptomatic and has exertional related chest pain as well as stress and emotionally related angina. I have informed the patient that he is to attempt to remain calm, because emotional stress in the form of tension and anxiety could precipitate angina and further myocardial damage. It is my feeling that Mr. Weatherly should not appear in person for his disability hearing because of the anxiety and tension this may produce in him.

Appearing at Pages 255-256 is a medical report of Jerry D. First, M.D. dated February 23, 1983 addressed to Equifax Services, Inc. The report states that Plaintiff "was examined for Equifax and lists his complaints in order of severity as: 1) Chest pain 2) Neck pain." The report further states:

- IMPRESSION: 1) ATHEROSCLEROTIC CORONARY ARTERY DISEASE
 2) CHRONIC STABLE ANGINA AT LOW LEVELS OF
 ACTIVITY
 3) CERVICAL SPINE DISEASE, PROBABLY MINIMAL
 4) HISTORY OF LUMBOSACRAL DISC DISEASE,
 STATUS POST OP

At Pages 257-265 are records of Hillcrest Medical Center covering Plaintiff's hospitalization from June 3, 1983 through June 4, 1983 and June 7, 1983 through June 9, 1983. These records indicate that Plaintiff was admitted on June 3, 1983 with complaints of "a fluttering sensation in his chest"; that he was admitted on June 7, 1983, "with complaints of palpitations." (Tr. 36) On both occasions it was noted that Plaintiff was "non-compliant with [his] medications." (Tr. 258, 263).

At Page 266 of the Transcript is a medical report of Dr. Ambrose A. Solano dated November 4, 1983. Dr. Solano refers to his previous letter of June 28, 1983, in which he states that it was his "conclusion at that time that Mr. Weatherly had severe distal vessel coronary artery disease with symptomatic external related and stress related angina." Dr. Solano states that it is his "impression that Mr. Weatherly was and is totally disabled from his heart disease." He further states:

I have seen Mr. Weatherly back in my office with the last visit being on 9-12-83. At that time he continued to note exertional and stress related angina which appeared to be relieved with rest and Nitroglycerine. His examination revealed blood pressure of 130/190, pulse at 74. Lung exam was clear, cardiac exam regular rate and rhythm without murmurs, gallops or rubs. Extremities were without edema. Assessment at that time was that he has organic heart disease with severe distal vessel disease and recurrent angina. My assessment has not changed in that I feel that Mr. Weatherly continues to be disabled.

Judicial review of the Secretary's denial of Social Security Disability Benefits is limited to a consideration of the pleadings and the transcript filed by the Secretary as required by 42

U.S.C. § 405(g), and is not a trial de novo, Atteberry v. Finch, 424 F.2d 36 (10th Cir. 1954); Hobby v. Hodges, 215 F.2d 754 (10th Cir. 1954). The findings of the Secretary and the inferences to be drawn therefrom are not to be disturbed by the Courts if there is substantial evidence to support them. 42 U.S.C. § 405(g); Bradley v. Califano, 593 F.2d 28 (10th Cir. 1978); Atteberry v. Finch, 424 F.2d at 38. Substantial evidence has been defined as: "'more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" Richardson v. Perales, 402 U.S. 389, 401, citing Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938). It must be based on the record as a whole. See Glasgow v. Weinberger, 405 F.Supp. 406, 408 (E.D. Cal. 1975). In National Labor Relations Board v. Columbian Enameling & Stamping Co., 306 U.S. 292, 300 (1939), the Court, interpreting what constitutes substantial evidence, stated:

It must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.

Cited in Atteberry v. Finch, 424 F.2d at 39; Gardner v. Bishop, 362 F.2d 917 (10th Cir. 1966). See also Haley v. Cellebreeze, 351 F.2d 516 (10th Cir. 1965); Folsom v. O'Neal, 250 F.2d 946 (10th Cir. 1957).

A person is considered to be "disabled" if such person is unable "to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment ... which has lasted or can be expected to last for a continuous period of not less than 12 months." 42 U.S.C. §§ 416(i)(1)(A), 423(d)(1)(A). "[A]n individual ... shall be determined to be

under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. ..." 42 U.S.C. §§ 423(d)(2)(A). Heckler v. Campbell, ____ U.S. ____, 103 S.Ct. 1952 (1983).

20 CFR §§404.1572 and 416.972 define "substantial gainful activity" as "work activity that is both substantial and gainful:

(a) Substantial work activity. Substantial work activity is work activity that involves doing significant physical or mental activities. Your work may be substantial even if it is done on a part-time basis or if you do less, get paid less, or have less responsibility than when you worked before.

(b) Gainful work activity. Gainful work activity is work activity that you do for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized."

In Broadbent v. Harris, 698 F.2d 407, 412 (10th Cir. 1983), the Court stated:

The major tenets of law that have been distilled from the cases decided on this issue are best summarized in Allen v. Califano, 613 F.2d 139 6th Cir., 1980.

1. The burden of proof in a claim for Social Security benefits is upon the claimant to show disability which prevents (him) from performing any substantial gainful employment for the statutory period. Once, however, a prima facie case that claimant cannot perform (his) usual work is made, the burden shifts to the Secretary to show that there is work in the national economy which (he) can perform. (Citations omitted.)

2. Convincing proof, consisting of lay testimony supported by clinical studies and medical evidence, that pain occasions a claimant's inability to perform his or her usual work is sufficient to make a prima facie case. (Citations omitted.)

3. In determining the question of substantiality of evidence, the reports of physicians who have treated a patient over a period of time or who are consulted for purposes of treatment are given greater weight than are reports of physicians employed and paid by the government for the purpose of defending against a disability claim. (Citations omitted.)

4. Substantiality of evidence must be based upon the record taken as a whole. (Citations omitted)

The grid regulations of the Social Security Administration, 20 CFR §§ 404.1501, et seq. (1982), provide for the sequential evaluation of disability. The first step in evaluating disability concerns whether the claimant is working and whether the work he is doing is "substantial gainful activity." 20 CFR § 404.1520(b) (1982). If it is found that claimant is engaged in substantial gainful employment, the claim is denied without reference to the subsequent steps in the sequence. If claimant is not so employed, the second inquiry is whether claimant has "any impairment(s) which significantly limits [claimant's] physical or mental ability to do basic work activities." 20 CFR § 404.1520(c) (1982). If claimant is found to have no "severe impairment", the claim is denied. If the ALJ finds a claimant has a "severe impairment", the third step must be followed, which is whether such impairment meets or equals one of the "Listing of Impairments" set forth in the tables in Appendix 1 of the regulations. If the impairment meets or equals any of those listed in the table(s), the claim is approved. 20 CFR §

404.1520(d) (1982) If the impairment does not, the fourth step is considered, which requires the ALJ to "then review [claimant's] residual functional capacity and the physical and mental demands of the work [claimant has] done in the past," and if claimant "can still do this kind of work" the claim is denied. 20 CFR § 404.1520(e) (1982). If claimant is found not capable of returning to his past work, the fifth step must be followed, which requires the ALJ to "consider [claimant's] residual functional capacity and [his] age, education, and past work experience to see if [he] can do other work." 20 CFR § 404.1520(f) (1982). If claimant is not able to perform "other work", the claim is approved.

20 CFR § 404.1521 states that "[a]n impairment is not severe if it does not significantly limit [claimant's] physical or mental abilities to do basic work activities. . . . Basic work activities . . . mean(s) the abilities and aptitudes necessary to do most jobs. Examples of these include . . . (1) [p]hysical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling; . . . (2) Capacities for seeing, hearing, and speaking; (3) Understanding, carrying out, and remembering simple instructions; (4) Use of judgment; (5) Responding appropriately to supervision, co-workers and usual work situations; and (6) Dealing with changes in a routine work setting."

In Brady v. Heckler, 724 F.2d 914 (11th Cir. 1984), the Court stated that "[i]n an action seeking disability benefits, the burden is upon the claimant to demonstrate the existence of a disability as defined by the Social Security Act." The Court further stated that "[t]he key point then becomes what is meant

by a severe impairment." (Id. at 918). After discussing the regulations concerning the definition of a severe impairment, the Court stated that "[t]hrough the 1968, 1978, and 1980 regulations used different words to describe severe impairment, it is clear from an analysis of the cases that the definition of severe impairment has not changed throughout the years." (Id. at 919). The Court further noted:

In a document entitled "Appeals Council Review and Sequential Evaluation Under Expanded Vocational Regulations," attached to a January 30, 1980, memorandum from the Appeals Council regarding its cumulative findings on appraisal of appealed cases during 1979, the Appeals Council set forth its policy regarding findings of severe or not severe:

The Appeals Council, therefore, specifically considered the issue of when an impairment(s) should be considered as 'not severe' within the meaning of these regulations. The Council concluded in a minute that the definition contained in regulations 404.1503(c) and 416.903(c) was not intended to change, but was merely a clarification of the previous regulatory terms 'slight neurosis, slight impairment of sight or hearing, or other slight abnormality or a combination of slight abnormalities . . .' In other words, an impairment can be considered as 'not severe' only if it is a slight abnormality which has such a minimal effect on the individual that it would not be expected to interfere with the individual's ability to work, irrespective of age, education, or work experience

Appeals Council Review of Sequential Evaluation Under Expanded Vocational Regulations (1980).

(Id. at 919-920). The Court then stated that "[t]he 1980 recodification stated that impairment is not considered severe if it does not significantly limit the claimant's physical or mental ability to do basic work activities"; that "[t]hrough the regulation adds new language to the definition of severe impairment, the key point is that . . . the recodification in 1980 evinced no change in expression of the Secretary's intent as to the levels of severity needed for finding of not disabled on the basis of

medical considerations alone" and that "[a]n impairment can be considered as not severe only if it is a slight abnormality which has such a minimal effect on the individual that it would not be expected to interfere with the individual's ability to work, irrespective of age, education, or work experience." (Id. at 920).

In the instant case the ALJ stated that "[i]n applying the sequential steps outlined above, . . . [he] concludes that a decision on whether the claimant is disabled cannot be made based on work activity or on medical facts alone"; that "the record establishes that the claimant cannot perform his past relevant work," but that "considering the claimant's residual functional capacity and his age, education, and past work experience, . . . [he] further concludes that there are other jobs which the claimant can perform and that such jobs exist in significant numbers in the national economy." He therefore finds "that the claimant is not disabled within the meaning of the Social Security Act." (T. 20-21).

Since the ALJ determined that Plaintiff cannot return to his previous work as a meat cutter, the burden shifts to the Secretary to show that there is work in the national economy which Plaintiff can perform. Broadbent v. Harris, supra, 698 F.2d at 412. Reliance by the ALJ on Section 404.1569 of Regulations No. 4 and Rules 202.17 and 202.18, Table No. 2 of Appendix, No. 2, Subpart P, Regulations No. 4, does not satisfy the requirements of Broadbent that "the burden shifts to the Secretary to show that there is work in the National Economy which Claimant [Plaintiff] can perform."

As stated by the Court in Heckler v. Campbell, supra:

The regulations recognize that the rules only describe "major functional and vocational patterns." 20 CFR pt. 404, subpt. P, app. 2, § 200.00(a). If an individual's capabilities are not described accurately by a rule, the regulations make clear that the individual's particular limitations must be considered. See app. 2, §§ 200.00(a), (d). Additionally, the regulations declare that the Administrative Law Judge will not apply the age categories "mechanically in a borderline situation," 20 CFR § 404.1563(a), and recognize that some claimants may possess limitations that are not factored into the guidelines, see app. 2, § 200.0(e). Thus, the regulations provide that the rules will be applied only when they describe a claimant's abilities and limitations accurately.

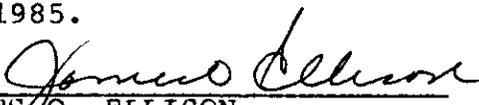
Id. at 1955, n.5.

It is the view of the Court that the findings of the ALJ "that there are other jobs which the [Plaintiff] can perform" and "that the [Plaintiff] is not disabled within the meaning of the Social Security Act," is not supported by substantial evidence. The record clearly indicates that Plaintiff has "severe distal vessel coronary artery disease with symptomatic exertional related and stress related angina," as described by Dr. Ambrose A. Solano, M.D., which condition is in fact disabling. (Tr. 186-187, 188-189, 190, 231, 244, and 246-247). Dr. Solano has been Plaintiff's treating physician since August 17, 1981. In Cavitt v. Schweiker, 704 F.2d 1192, 1195, n. 11 (10th Cir. 1983), the Court considers as "particularly significant" the opinion of claimant's "long standing treating physician" with respect to the issue of disability.

Under Title 42 U.S.C. § 404(g), the Court may remand the case to the Secretary at any time, on good cause shown, and may order additional evidence to be taken before the Secretary. Because of the nature of Plaintiff's impairments, it is recommended that the case be remanded to the Secretary for further proceedings. It is further recommended that the

Secretary give consideration to having a vocational expert's testimony concerning employment opportunities for a person with Plaintiff's impairments.

Dated this 24TH day of July, 1985.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Citizens Security Savings & Trust Company, John Cantrell and
Universal Life Church.

DATED at Tulsa, Oklahoma this 23^d day of July, 1985.



JAMES J. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JUL 24 1985

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JEFFREY DUNN,)
)
 Defendant.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 84-C-983-E

ORDER OF DISMISSAL

Now on this 23 day of July, 1985, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve him have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Jeffrey Dunn, be and is dismissed without prejudice.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 24 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

CHARLES J. SMITH,)
)
 Plaintiff,)
)
 v.)
)
 MARGARET M. HECKLER,)
 Secretary of Health and)
 Human Services of the)
 United States of America,)
)
 Defendant.)

No. 84-C-315-B ✓

ORDER

On May 17, 1985, the Court granted plaintiff a seventh extension of time in which to file plaintiff's brief in support of his action. Plaintiff did not file a brief by July 3, 1985, as specified in the seventh extension, and has not done so to date. Premises considered, the Court dismisses the action sua sponte for failure to prosecute.

IT IS SO ORDERED this 23rd day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

FILED

JUL 24 1985

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ROSE G. SUMNER, CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
MILTON T. SPEARMAN,)	
)	
Defendant.)	CIVIL ACTION NO. 85-C-474-C

DEFAULT JUDGMENT

This matter comes on for consideration this 24 day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Milton T. Spearman, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Milton T. Spearman, was served with Summons and Complaint on June 25, 1985, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Milton T. Spearman, for the principal sum of \$807.06, as of June 9, 1980,

plus interest thereafter at the rate of 4 percent per annum until paid, plus costs of this action.

s/H. DALE COOK.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 24 1985

ERNEST DALE THOMPSON and)
KELLY THOMPSON, husband and)
wife; and ERNEST DALE THOMPSON,)
father, guardian, and next friend)
of JASON THOMPSON, a minor,)

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

Plaintiffs,)

v.)

No. 84-C-8-B

SHELTER MUTUAL INSURANCE,)
a Missouri corporation,)

Defendant.)

JUDGMENT FOR ATTORNEY FEES

In keeping with the Findings of Fact and Conclusions of Law entered this date, IT IS HEREBY ADJUDGED the plaintiffs are granted judgment herein in the total amount of Thirty-Six Thousand Eight Hundred Sixty Five and 55/100 Dollars (\$36,865.55) as and for attorney fees, with post-judgment interest at the rate of 7.60% per annum.

ENTERED this 24th day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE **FILED**
NORTHERN DISTRICT OF OKLAHOMA

JUL 24 1985

BOOKER SCHMIDT, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 KENNETH ROGERS,)
)
 Defendant.)

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

No. 83-C-799-C

J U D G M E N T

Pursuant to the Order entered simultaneously herein under Rule 14(a) of the Rules of this Court, judgment is hereby entered in favor of plaintiff Booker Schmidt, Inc. and against defendant Kenneth Rogers in the amount of \$10,500.00 in attorney fees.

IT IS SO ORDERED this 24th day of July, 1985


H. DALE COOK
Chief Judge, U. S. District Court

Entered

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL 24 1985

JACK G. SILVER, CLERK
U.S. DISTRICT COURT

Betty R. Heltzel,)
)
 Plaintiff)
)
 v.)
)
 MARGARET M. HECKLER, Secretary)
 of Health and Human Services,)
)
 Defendant.)

No. 84-C-142-C

**ORDER REMANDING CASE
TO DEFENDANT FOR FURTHER PROCEEDINGS**

Plaintiff brought this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g) (1976), for judicial review of a final decision of the Secretary of Health and Human Services (Secretary) denying her claim for social security benefits under §§ 216(i) and 223(d) of Title II of the Act, 41 U.S.C. §§ 416(i) and 426(d) (1976 and Supp. III, 1979), and for supplemental security income benefits based on disability under §1602 of Title XVI of the Act, 42 U.S.C. § 1381a.

After the matter was referred to the Magistrate for Findings and Recommendations, the Magistrate entered a minute on April 23, 1985 recommending that the Court remand the case to the Secretary for further proceedings. The Magistrate's term ended on July 7, 1985, before the Magistrate had completed and filed written findings and recommendations. The Court has, therefore, considered the file, the transcript of the proceedings before the Administrative Law Judge (ALJ), and the briefs of the parties, and has concluded that the case should be remanded to the Secretary for further proceedings.

Plaintiff filed her application for disability benefits and supplemental security income on October 15, 1982, in which she claims she became unable to work on September 7, 1982, because of "osteolysis." (Tr. 56). Plaintiff's applications were denied administratively both initially and on reconsideration, after a physician and disability examiner evaluated the evidence and determined that Plaintiff was not disabled within the meaning of the Act. (Tr. 80-84, 86-90). Plaintiff then requested and was granted a hearing before an Administrative Law Judge George Hargrave, Jr. on July 18, 1983. The ALJ found that Plaintiff "was not under a 'disability' as defined in the Social Security Act, at any time through the date of [his] decision [August 17, 1983]," and that Plaintiff "is not entitled to a period of disability or disability insurance benefits . . . and is not eligible for Supplemental Security Income under . . . the Act." (Tr. 18). Plaintiff then requested a review of the ALJ's decision by the Appeals Council, and on December 20, 1983, the Appeals Council denied Plaintiff's appeal, and the decision of the ALJ became the final decision of the Secretary. (Tr. 4-5).

At the hearing before the ALJ Plaintiff appeared personally and with her attorney, Richard Goldwyn. Plaintiff is 53 years of age, is married, and has a fifth grade education. Plaintiff testified that she had been married approximately one year; that her husband is employed on a part-time basis as a "molder"; that he "makes parts of an oil well." Plaintiff further testified that she was last employed by Hillcrest until her termination on September 7, 1982, where she had worked for four years; that she "was hired as a dry [laundry] folder, but [has] done practically

everything else, lifting clothes upon a board and sortin[g] dirty linens and workin[g] on a manual ironer, . . ."; that prior to working at Hillcrest she was employed at Holiday Inn for a year and also worked at the Bank of Oklahoma as a janitor for approximately two years before going to work for Hillcrest; that 16 or 17 years ago she had nurses aide training and worked as a nurses aide for approximately two years.

She further testified that she had surgery on her left wrist in 1983 and on her right wrist in 1981; that she has also had three mastoid operations in her ears, a gall bladder operation and a hysterectomy; that she has been treated for hypertension for approximately eight years and takes medication for that condition at the present time; that her present doctor is Dr. Atkins and prior to 1982 she was treated by Dr. Dewey. She further stated that approximately three to four years ago she slipped and fell on some ice and injured her right hip; that this occurred after she started working at Hillcrest; that the condition with her hip has not improved much during the past four years; that she has difficulty standing as a result of her hip injury; that after she commenced working at Hillcrest she hurt her back while trying to lift some wet dirty linens from a cart; that she was not able to work for approximately three weeks after that accident; that she also had another accident in the early part of 1982, at which time she was going to church and started to step up on to a step and injured her knee; that she received treatment for her knee at Hillcrest, and missed approximately six weeks work at that time; that they put her knee in a cast and she had to use crutches; that following her knee injury when she returned to work at Hillcrest she had difficulty standing and walking.

Plaintiff described her impairments as arthritis in her knee, hip, back and wrist; that she last saw Dr. Timothy L. Huettner, M. D., in connection with that condition in December of 1982; that her present physician is Dr. Paul N. Atkins, Jr., M.D., who is treating her for high blood pressure; that in addition to her medication for high blood pressure she takes Tylenol for pain; that she is able to do some light housekeeping work for herself; that she does not feel she can hold down a job because she is "in too much pain to do a days work."

On examination by the ALJ, Plaintiff stated that she could not write a letter and reads very poorly.

Clara Hunter, a distant relative of Plaintiff by marriage, testified on behalf of Plaintiff that she sees her every day; that Plaintiff's activities have become more limited during the past year; that she is able to do some house work but "has to do just a little at a time"; that she, Mrs. Hunter helps her with the house work, particularly in the afternoon if something needs to be done, because in the afternoon "she's really in pain"; that she Hunter, helps Plaintiff with her errands such as paying bills, going to the Post Office and grocery shopping; that since November of 1982 Plaintiff has not been able to get around "hardly any."

At Pages 100-107 of the Transcript is a "Disability Report" dated October 15, 1982, in which the Social Security interviewer states that from a personal interview with Plaintiff, he considers Plaintiff "to be of low average intelligence or may be mildly retarded." (Tr. 107).

At Page 127 of the Transcript are progress notes in which Dr. Myra A. Peters, M.D., states that Plaintiff's "primary complaints are localized at this time to the low back, [right] hip, [right] knee"; that a review of X-rays shows "[f]airly advanced O.A. spine." The date of the note is September 17, 1982.

At Page 142 of the Transcript is a Medical Report of Timothy L. Huettner, M. D., dated September 23, 1982 in which Dr. Huettner states as follows:

I am writing to you concerning Betty Heltzel whom I saw for an initial evaluation on September 21, 1982. From a Rheumatologist's point of view, I believe that she has Degenerative Joint Disease, a possible internal derangement of the right knee, and a possible Lumbosacral Radiculopathy. At the present time, she is being treated by Dr. Rodney Huey with medications for these problems and I have not suggested any changes in the medications. I have also stated that she really needs to lose a great deal of weight to see if her problem will respond to that. According to Dr. Huey's notes, it has responded to weight loss in the past.

At the present time, I would state that she is disabled to the extent that I don't think that she could perform any job that would require prolonged standing, squatting, lifting, or bending forward. This reflects the primary involvement with her back and lower extremities. Her arms, however, do not have that much in the way of problems and I think she could do lighter work if it did not involve the activities I previously mentioned.

At Pages 143-146 is a Medical Report of Timothy L. Huettner, M. D., dated October 21, 1982 in which Dr. Huettner states his "diagnosis" as follows:

1. Degenerative Joint Disease involving the hips, lumbosacral spine and the knees
2. Possible Lumbosacral Radiculopathy
3. Possible Internal Derangement of the right knee

At Page 147 of the Transcript is a Medical Report of Dr. Timothy L. Huettner, M.D., dated March 17, 1983, in which Dr. Huettner states as follows:

I last saw Ms. Heltzel on December 28, 1982. At that time my diagnostic impression was: 1. Degenerative joint disease. 2. Possible lumbosacral radiculopathy. As stated in the past, I also felt that there was a possibility of an internal derangement of the right knee. I also stated, as I had in the past, that she could expect no improvement in any of these problems unless she lost a significant amount of weight.

Even if she did lose a significant amount of weight and her symptoms improved, I still would not recommend any occupation that involved prolonged standing, squatting, lifting, or bending forward. Any of these actions might exacerbate one of her arthritis problems. However, she has little in the way of involvement in the upper extremities, and I think that she could do some work of a light nature. One example would be an occupation where she could sit and perhaps do work such as sorting objects. However, a job of this nature certainly might be very difficult to find given the patient's age and educational limitations.

At Page 152 of the Transcript is a letter dated October 26, 1982 from Dennis Stallings, Director, Laundry/ Linen Service to Plaintiff in which Mr. Stallings states as follows:

During the past two weeks I have endeavored to find employment for you here at Hillcrest that would fit your physical limitations. I am sorry to report that at present there is nothing available that you would qualify for.

Because there are no jobs available in your skill area and you are unable to meet the requirements of laundry work I am terminating your job at Hillcrest Medical Center.

Hillcrest appreciates your loyalty and hard work and regrets your ill health. We trust your life will be enhanced and prolonged due to the reduction of stress.

At Page 153 of the Transcript is a medical report of Paul N. Atkins, Jr., M.D. dated July 12, 1983 in which Dr. Atkins states:

I have examined and treated Betty Heltzel since May of 1982. Mrs. Heltzel has a generalized arthritic condition, for which I have been treating her. This has been confirmed (sic) by X-ray examination. She suffers from hypertension, which, despite medication, runs about 160/100. She also has hypertensive heart

disease with evidence of enlargement of her heart on x-ray examination. There is a hearing loss in the right ear. Mrs. Heltzel has had carpal tunnel surgery on both wrists, and this has resulted in weakness of both hands and arms. She also is obese. She is 5 feet 6 inches (sic) tall and weighs 210 pounds. Mrs. Heltzel has a 5th grade education, which would not qualify her for vocational rehabilitation training.

It is my opinion that Betty Heltzel, as a result of the various medical conditions, the lack of education, and the obesity, Betty Heltzel is not capable of being employed in any type of gainful occupation.

Attached to Plaintiff's Complaint is a copy of a "Psychological Evaluation" of Plaintiff dated January 16, 1984, in which Warren L. Smith, Ph.D., licensed Psychologist, states that "from his examination of Plaintiff, Plaintiff's "limitations are such that she can only be trained for simple repetitive tasks and even here will be difficult because of her arthritis."

Attached as an exhibit to Plaintiff's Amended Complaint is a report from Tulsa Evaluation Center signed by W. R. Barnes, Evaluator, which report shows a completion date of March 5, 1984. Mr. Barnes concludes from his testing as follows:

SUMMARY:

This client has multiple physical limitations and is a functional illiterate with academic skills. She appears about 10 years older than her true age of 54. She appeared to be putting forth her greatest effort on all of the tests and job sample tasks that were administered to her. Unfortunately, her many limitations prevented her from making a rating that would indicate she could do some possible type work.

Based on these findings and observations of her in various work settings, it is this evaluator's opinion that she is totally incapable of being employed in any capacity on the open labor market.

RECOMMENDATIONS:

1. This client is not employable now in any known job category, nor did she display the aptitude or ability to be employable following any physical restoration or training program.

2. It is felt the optimum level of her capacity is to take care of herself. Currently she is capable of doing light housekeeping chores and needs no further assistance in this area at this time, but could quite possibly need these services sometime in the relatively near future.

Judicial review of the Secretary's denial of Social Security Disability Benefits is limited to a consideration of the pleadings and the transcript filed by the Secretary as required by 42 U.S.C. § 405(g), and is not a trial de novo, Atteberry v. Finch, 424 F.2d 36 (10th Cir. 1954); Hobby v. Hodges, 215 F.2d 754 (10th Cir. 1954). The findings of the Secretary and the inferences to be drawn therefrom are not to be disturbed by the Courts if there is substantial evidence to support them. 42 U.S.C. § 405(g); Bradley v. Califano, 593 F.2d 28 (10th Cir. 1978); Atteberry v. Finch, 424 F.2d at 38. Substantial evidence has been defined as: "'more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" Richardson v. Perales, 402 U.S. 389, 401, citing Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938). It must be based on the record as a whole. See Glasgow v. Weinberger, 405 F.Supp. 406, 408 (E.D. Cal. 1975). In National Labor Relations Board v. Columbian Enameling & Stamping Co., 306 U.S. 292, 300 (1939), the Court, interpreting what constitutes substantial evidence, stated:

It must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.

Cited in Atteberry v. Finch, 424 F.2d at 39; Gardner v. Bishop, 362 F.2d 917 (10th Cir. 1966). See also Haley v. Cellebrezze, 351 F.2d 516 (10th Cir. 1965); Folsom v. O'Neal, 250 F.2d 946 (10th Cir. 1957).

A person is considered to be "disabled" if such person is unable "to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment ... which has lasted or can be expected to last for a continuous period of not less than 12 months." 42 U.S.C. §§ 416(i)(1)(A), 423(d)(1)(A). "[A]n individual ... shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. ..." 42 U.S.C. §§ 423(d)(2)(A). Heckler v. Campbell, ___ U.S. ___, 103 S.Ct. 1952 (1983).

20 CFR §§404.1572 and 416.972 define "substantial gainful activity" as "work activity that is both substantial and gainful:

(a) Substantial work activity. Substantial work activity is work activity that involves doing significant physical or mental activities. Your work may be substantial even if it is done on a part-time basis or if you do less, get paid less, or have less responsibility than when you worked before.

(b) Gainful work activity. Gainful work activity is work activity that you do for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized."

In Broadbent v. Harris, 698 F.2d 407, 412 (10th Cir. 1983),
the Court stated:

The major tenets of law that have been distilled from the cases decided on this issue are best summarized in Allen v. Califano, 613 F.2d 139 6th Cir., 1980.

1. The burden of proof in a claim for Social Security benefits is upon the claimant to show disability which prevents (him) from performing any substantial gainful employment for the statutory period. Once, however, a prima facie case that claimant cannot perform (his) usual work is made, the burden shifts to the Secretary to show that there is work in the national economy which (he) can perform. (Citations omitted.)
2. Convincing proof, consisting of lay testimony supported by clinical studies and medical evidence, that pain occasions a claimant's inability to perform his or her usual work is sufficient to make a prima facie case. (Citations omitted.)
3. In determining the question of substantiality of evidence, the reports of physicians who have treated a patient over a period of time or who are consulted for purposes of treatment are given greater weight than are reports of physicians employed and paid by the government for the purpose of defending against a disability claim. (Citations omitted.)
4. Substantiality of evidence must be based upon the record taken as a whole. (Citations omitted)

The grid regulations of the Social Security Administration, 20 CFR §§ 404.1501, et seq. (1982), provide for the sequential evaluation of disability. The first step in evaluating disability concerns whether the claimant is working and whether the work he is doing is "substantial gainful activity." 20 CFR § 404.1520(b) (1982). If it is found that claimant is engaged in substantial gainful employment, the claim is denied without reference to the subsequent steps in the sequence. If claimant is not so employed, the second inquiry is whether claimant has

"any impairment(s) which significantly limits [claimant's] physical or mental ability to do basic work activities." 20 CFR § 404.1520(c) (1982). If claimant is found to have no "severe impairment", the claim is denied. If the ALJ finds a claimant has a "severe impairment", the third step must be followed, which is whether such impairment meets or equals one of the "Listing of Impairments" set forth in the tables in Appendix 1 of the regulations. If the impairment meets or equals any of those listed in the table(s), the claim is approved. 20 CFR § 404.1520(d) (1982) If the impairment does not, the fourth step is considered, which requires the ALJ to "then review [claimant's] residual functional capacity and the physical and mental demands of the work [claimant has] done in the past," and if claimant "can still do this kind of work" the claim is denied. 20 CFR § 404.1520(e) (1982). If claimant is found not capable of returning to his past work, the fifth step must be followed, which requires the ALJ to "consider [claimant's] residual functional capacity and [his] age, education, and past work experience to see if [he] can do other work." 20 CFR § 404.1520(f) (1982). If claimant is not able to perform "other work", the claim is approved.

20 CFR § 404.1521 states that "[a]n impairment is not severe if it does not significantly limit [claimant's] physical or mental abilities to do basic work activities. . . . Basic work activities . . . mean(s) the abilities and aptitudes necessary to do most jobs. Examples of these include . . . (1) [p]hysical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling; . . . (2) Capacities for seeing, hearing, and speaking; (3) Understanding, carrying out,

and remembering simple instructions; (4) Use of judgment; (5) Responding appropriately to supervision, co-workers and usual work situations; and (6) Dealing with changes in a routine work setting."

In Brady v. Heckler, 724 F.2d 914 (11th Cir. 1984), the Court stated that "[i]n an action seeking disability benefits, the burden is upon the claimant to demonstrate the existence of a disability as defined by the Social Security Act." The Court further stated that "[t]he key point then becomes what is meant by a severe impairment." (Id. at 918). After discussing the regulations concerning the definition of a severe impairment, the Court stated that "[t]hrough the 1968, 1978, and 1980 regulations used different words to describe severe impairment, it is clear from an analysis of the cases that the definition of severe impairment has not changed throughout the years." (Id. at 919). The Court further noted:

In a document entitled "Appeals Council Review and Sequential Evaluation Under Expanded Vocational Regulations," attached to a January 30, 1980, memorandum from the Appeals Council regarding its cumulative findings on appraisal of appealed cases during 1979, the Appeals Council set forth its policy regarding findings of severe or not severe:

The Appeals Council, therefore, specifically considered the issue of when an impairment(s) should be considered as 'not severe' within the meaning of these regulations. The Council concluded in a minute that the definition contained in regulations 404.1503(c) and 416.903(c) was not intended to change, but was merely a clarification of the previous regulatory terms 'slight neurosis, slight impairment of sight or hearing, or other slight abnormality or a combination of slight abnormalities . . .'. In other words, an impairment can be considered as 'not severe' only if it is a slight abnormality which has such a minimal effect on the individual that it would not be expected to interfere with the individual's ability to work, irrespective of age, education, or work experience

Appeals Council Review of Sequential Evaluation Under Expanded Vocational Regulations (1980).

(Id. at 919-920). The Court then stated that "[t]he 1980 recodification stated that impairment is not considered severe if it does not significantly limit the claimant's physical or mental ability to do basic work activities"; that "[t]hough the regulation adds new language to the definition of severe impairment, the key point is that . . . the recodification in 1980 evinced no change in expression of the Secretary's intent as to the levels of severity needed for finding of not disabled on the basis of medical considerations alone" and that "[a]n impairment can be considered as not severe only if it is a slight abnormality which has such a minimal effect on the individual that it would not be expected to interfere with the individual's ability to work, irrespective of age, education, or work experience." (Id. at 920).

In his decision the ALJ stated "that the claimant's impairments are not of such severity that she is functionally limited to the extent that she is prevented from engaging in substantial gainful activity of a sedentary to light nature"; that Plaintiff's condition is not "sufficiently severe so as to preclude all substantial gainful activity for a period of 12 consecutive months"; that Plaintiff "has the residual functional capacity to perform work-related functions," and that Plaintiff's "impairment does not prevent [her] from performing her past relevant work." (Tr. 17-18).

It is the view of the Court that the findings of the ALJ that "claimant's impairment does not prevent the claimant from performing her past relevant work" and that "claimant was not under a 'disability' as defined in the Social Security Act, at any time through the date of [his] decision [August 17, 1983]"

(Tr. 10), are not supported by substantial evidence. The medical reports of Timothy L. Huettner, M.D. of September 23, 1982 and March 17, 1983 (Tr. 142, 147), the medical report of Paul N. Atkins, Jr., M.D. (Tr. 153), the letter of Dennis Stallings, Director Laundry/Linen Service, Hillcrest Medical Center (Tr. 152) the "Psychological Evaluation" report attached to Plaintiff's Complaint, the report of Tulsa Evaluation Center attached to Plaintiff's Amended Complaint as an exhibit, and Plaintiff's testimony clearly indicate that Plaintiff does have impairments which significantly limit her physical ability to do basic work activities.

Because the ALJ concluded that Plaintiff's impairment does not prevent her from performing her past relevant work as a dry laundry folder, he did not complete the sequential evaluation of disability as required by the Grid Regulations. As noted above, if the Claimant is found not capable of returning to her past work, the fifth step in the sequential evaluation must be followed. This requires the ALJ to "consider [Claimant's] residual functional capacity and [her] age, education, and past work experience to see if [she] can do other work." 20 CFR §404.1520(f) (1982). If the Claimant is not able to perform "other work" the claim for disability is approved.

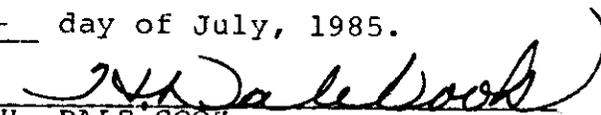
The Vocational Report at Pages 94-95 shows that Plaintiff's work as a dry laundry folder required the "[u]se [of] machines, tools, [and] equipment . . . [u]se [of] technical knowledge or skills . . . writing, complet[ion] [of] reports [and] . . . similar duties . . . supervisory responsibilities." (Tr. 95). The Vocational Report further shows that the duties of Plaintiff as a dry laundry folder included walking and standing during a 7 hour

period of time, sitting approximately one hour, bending "[c]onstantly," reaching "[c]onstantly," lifting and carrying 50 to 100 pounds one time a week and lifting of 20 to 50 pounds. (Tr. 95).

In the instant case the ALJ should have completed the sequential evaluation. Here the record indicates that Plaintiff cannot return to her previous work, and therefore, the burden shifts to the Secretary to show that there is work in the national economy which Plaintiff can perform. Broadbent v. Harris, 698 F.2d 407, 412 (10th Cir. 1983).

Under Title 42 U.S.C. § 404(g), the court may remand the case to the Secretary at any time, on good cause shown, and may order additional evidence to be taken before the Secretary. Because of the nature of Plaintiff's impairments, it is Ordered that the case be remanded to the Secretary for further proceedings, and that the Secretary give consideration to having a vocational expert's testimony concerning employment opportunities for a person with Plaintiff's impairments.

It is so Ordered this 23 day of July, 1985.


H. DALE COOK
CHIEF JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 24 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN RE:)
KENNETH E. TUREAUD, a/k/a)
KENNETH TUREAUD d/b/a SAKET)
PETROLEUM COMPANY, a/k/a)
KENNETH E. TUREAUD, d/b/a)
KESAT, a/k/a SAKET PETROLEUM)
COMPANY,)
)
Debtor,)
)
R. DOBIE LANGENKAMP, TRUSTEE,)
)
Plaintiff-Appellee,)
)
v.)
)
SYLVIA ANN TUREAUD, a/k/a)
SYLVANNE TUREAUD, RIVER RIDGE)
DEVELOPMENT CORP., a Florida)
corporation; SAKET)
DEVELOPMENT CORP., an Oklahoma)
corporation; LINDA VISTA CORP.,)
a Florida corporation;)
SOUTHERN LAKES DEVELOPMENT)
CORP., an Oklahoma corporation;)
ASAP CORP., a Michigan corpora-)
tion; SAKET DEVELOPMENT CO., a)
New Mexico corporation; EMERALD)
ACRES, a partnership,)
)
Defendants-Appellants.)

Bankr. Case No.
82-01289

Bankr. Adv. Pro. No.
83-0144

District Court No.
83-C-416-B

ORDER

This matter comes before the Court upon defendants' appeal from an order of the United States Bankruptcy Court for the Northern District of Oklahoma, dated April 25, 1983, denying defendants' motion to dismiss, and from an order dated April 28, 1983, granting plaintiff Trustee's application for a preliminary injunction. Based on the record before it, and for the reasons set forth below, this Court finds that the Bankruptcy Court did

not err in denying defendants' motion to dismiss or in granting plaintiff's application for a preliminary injunction.

The relevant facts appear as follows: R. Dobie Langenkamp, Trustee of the estate of Kenneth E. Tureaud, initiated a voluntary Chapter II proceeding against Sylvia Ann Tureaud and various corporate defendants on February 22, 1983, seeking to avoid certain transfers of property from Kenneth E. Tureaud to himself and his wife as tenants by the entirety. Of the Trustee's initial fourteen causes of action involving the purported property transfers, all but the sixth, seventh, and eighth causes of action regarding the alleged fraudulent transfer of certain gold coins under Section 548 of Title 11 of the United States Code were rendered moot by reason of a certain Stipulation and Agreement between the Trustee and Kenneth and Sylvia Tureaud entered June 15, 1984, by order of the Bankruptcy Court. Upon application of the Trustee, a temporary restraining order was issued on February 22, 1983, and a preliminary injunction ordered on May 13, 1983, enjoining Sylvia Tureaud and the corporate defendants from disposing of or otherwise taking any action affecting the property and assets owned and controlled by them pending resolution of this proceeding on the merits.

Defendants submit that the Bankruptcy Court erred in denying their motion to dismiss the Trustee's complaint on the grounds that: (1) the Bankruptcy Court lacked subject matter jurisdiction to grant the requested relief; (2) the Trustee's complaint failed to allege sufficient facts entitling it to

relief; (3) the Trustee failed to join Kenneth E. Tureaud who was a necessary and indispensable party to the action; (4) the shares of stock held by Kenneth and Sylvia Tureaud as tenants by the entirety are exempt as property of the estate and are therefore beyond the reach of the Trustee's avoiding powers under section 548 of the Bankruptcy Code; and (5) the Bankruptcy Court failed to accord defendant procedural due process.

Defendants further submit that the Bankruptcy Court erred in granting the Trustee's application for a preliminary injunction on the grounds that: (1) the Trustee failed to show a substantial likelihood of prevailing on the merits; (2) the Trustee failed to prove he would suffer irreparable injury; (3) the Trustee failed to prove that the threatened injury to the Trustee outweighed whatever damage the preliminary injunction may cause defendants; and (4) the Bankruptcy Court failed to issue findings of fact and conclusions of law in accordance with Rule 52(a) of the Federal Rules of Civil Procedure.

I.

THE MOTION TO DISMISS

[1] Section 1471 of Title 11 of the United States Code confers upon the District Courts of the United States original and exclusive jurisdiction of "all cases under Title 11," 28 U.S.C. §1471(a) (Supp. 1985), and original but not exclusive jurisdiction of "all civil proceedings arising under Title 11 or arising in or related to cases under Title 11." 28 U.S.C. §1471(b) (Supp. 1985). Subsection (c) of section 1471 delegates

the exercise of all the District Courts' jurisdiction to the Bankruptcy Court. 28 U.S.C. §1471(c) (Supp. 1985).

Citing Northern Pipeline Construction Co. v. Marathon Pipeline Co., 458 U.S. 50 (1982), defendants argue that the jurisdictional grant of section 1471 was declared unconstitutional in its entirety. In Marathon, the broad grant of jurisdiction to the bankruptcy courts in section 1471(c) was held violative of Article III of the United States Constitution. Id. However, defendants' argument that the invalidation of the jurisdictional grant to the bankruptcy courts in section 1471(c) also invalidated the jurisdictional grant to the district courts in section 1471(a) and (b) was specifically rejected by the Tenth Circuit Court of Appeals in Oklahoma Health Services Federal Credit Union v. Webb, 725 F.2d 624 (10th Cir. 1984), where it was determined that Marathon invalidated only the jurisdictional grant to the bankruptcy courts, not the jurisdictional grant to the district courts under section 1471(a) and (b). As such, the continued exercise of jurisdiction over bankruptcy matters by the District Courts is valid.

In response to the jurisdictional problem created by Marathon, the Judicial Conference of the United States proposed an interim rule for handling bankruptcy cases until remedial legislation is enacted, urging the district courts to promulgate similar bankruptcy rules. In re Kaiser, 722 F.2d 1574 (2nd Cir. 1983). The "Emergency Rule" adopted in the Northern District of Oklahoma provides that bankruptcy judges are referred "[a]ll

cases under Title 11 and all civil proceedings arising under Title 11 or arising in or related to cases under Title 11." Northern District Rule on Referral of Bankruptcy Cases, Misc. No. M-128. Defendants maintain that implementation of an interim procedure rule is a function only for Congress, and not for the District Courts. The validity of this district's interim rule, however, was upheld in Oklahoma Health Services Federal Credit Union v. Webb, 726 F.2d 624 (10th Cir. 1984), as a valid exercise of the district courts' original jurisdiction in bankruptcy cases and of their duty to ensure that "bankruptcy matters proceed to conclusion in a fair and expeditious manner." White Motor Corp. v. Citibank N.A., 704 F.2d 254, 261 (6th Cir. 1983). The Bankruptcy Court was properly vested with jurisdiction over plaintiff's claim under the constitutional mandates of section 1471(a) and (b) of Title 11 of the United States Code and the Emergency Rule adopted by the Northern District of Oklahoma.

[2] Defendants argue that plaintiff's complaint fails to allege sufficient facts to entitle him to relief under section 548(a) of the Bankruptcy Code and Rule 8(a) of the Federal Rules of Civil Procedure. Section 548 of the Bankruptcy Code permits the Trustee to avoid the transfer of Tureaud's property if such transfer was made within one year before the date of the petition's filing, if Tureaud received less than a reasonably equivalent value in exchange for the transfer, and was insolvent on the date of transfer, became insolvent as a result of the transfer, or intended to incur debts beyond his ability to repay them as they matured. 11 U.S.C.A. §548 (1978).

Clearly, plaintiff alleges sufficient facts to satisfy the elements of a fraudulent transfer under section 548 and the minimal notice pleading requirements of Rule 8(a). Plaintiff specifically alleges that the debtor, Kenneth E. Tureaud, was the owner of the gold coins, that Tureaud transferred such ownership to his wife, Sylvia Tureaud, that such transfer was made while Tureaud was insolvent or had an intention not to repay debts, and was for less than a reasonably equivalent value. Defendants maintain that plaintiff's complaint is defective for being sweeping and conclusory. Yet, plaintiff's complaint is sufficient to constitute a short and plain statement of his claim and to give defendants notice of the claim and the grounds upon which it rests. Rannels v. S.E. Nichols, Inc., 591 F.2d 242 (3d Cir. 1979). The Bankruptcy Court did not err in denying the motion to dismiss on the ground that the complaint was insufficiently plead.

[3] Defendants assert that the complaint should have been dismissed for failing to join Kenneth Tureaud who is a necessary and indispensable party.

Rule 19(a) provides that a person who is subject to service of process and whose joinder will not deprive the court of subject matter jurisdiction shall be joined as a party if complete relief cannot be accorded among those already parties to the action in his absence, or he claims an interest relating to the subject of the action and is so situated that disposition of the action in his absence may, as a practical matter, impair his

ability to protect that interest, or leave any of the present parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. Fed.R.Civ.P. 19(a).

While Kenneth Tureaud may have possessed unique knowledge of the facts and circumstances surrounding the alleged fraudulent property transfer, such is evidence that he may have been a knowledgeable witness for the plaintiff, and not that he was a necessary party to this action. The elements of Rule 19(a) have not been met for the following reasons:

(a) Complete relief can be afforded the Trustee in Tureaud's absence. The Trustee seeks to avoid the transfer of certain gold coins from Tureaud to himself and his wife as tenants by the entirety. A determination of whether the transfer was fraudulent and should be avoided under Section 548 of the Bankruptcy Code can be made without Tureaud's presence before the court. The Tureaud estate is represented by and through the plaintiff, R. Dobie Langenkamp, as Trustee, and includes all legal and equitable interests of Tureaud's property as of commencement of the case. 11 U.S.C.A. §541(a)(1) (1978).

(b) Defendants have failed to demonstrate any basis upon which Tureaud claims, or could claim, an interest in the property adverse to the Trustee which would subject the present parties to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations. Once the bankrupt estate has been created, no property interests remain in the debtor unless such

property is declared exempt and beyond the reach of the Trustee under the listed uniform bankruptcy exemptions of Section 522(b), or the exemptions to which a debtor is entitled under applicable nonbankruptcy federal and state law. 11 U.S.C.A. §522 (1978).

[4] Defendants submit that the subject property is exempt and beyond the reach of the Trustee's avoiding powers by virtue of the nonbankruptcy laws of the State of Florida exempting property held as a tenancy by the entirety. Yet, the issue of whether the gold coins are exempt and beyond the reach of the Trustee can only be addressed after resolution of the main issue before the Bankruptcy Court as to whether the transfer of property from Kenneth Tureaud to himself and his wife was indeed a fraudulent transfer under section 548. If the transfer is determined to have been fraudulent, no valid tenancy by the entirety existed and the status of the property will be irrelevant. On the other hand, only if the transfer is not deemed fraudulent and a valid tenancy by the entirety exists in the property will the status of the property as exempt or non-exempt be at issue.

In conclusion, the Bankruptcy Court properly denied the defendants' motion to dismiss. Plaintiff's claim is sufficient to entitle it to relief under Section 548 of the Bankruptcy Code, and the Bankruptcy Court was properly vested with subject matter jurisdiction under Section 1471(a) and (b) of Title 11 of the United States Code and the Emergency Rule for the Northern District of Oklahoma. There is no evidence before the Court of a failure to accord the defendants due process of law.

II.

THE PRELIMINARY INJUNCTION

Defendants allege the Bankruptcy Court erred in granting the Trustee's application for a preliminary injunction. While injunctive relief is an extraordinary remedy, it is nonetheless a matter of judicial discretion, 19 Fed Proc, L Ed §47:49, and this Court need only determine on appeal that the findings of the Bankruptcy Court are not clearly erroneous and do not represent an abuse of discretion. Kenai Oil & Gas, 671 F.2d 383 (10th Cir. 1982).

Before an application for a preliminary injunction will be granted, the movant must establish: (1) a substantial likelihood of eventually prevailing on the merits, (2) that he will suffer irreparable injury unless the injunction issues, (3) proof that the threatened injury outweighs whatever damage the proposed injunction may cause the opposing party, and (4) that the injunction, if issued, would not be adverse to the public interest. Id. See also Lundgren v. Claytor, 619 F.2d 61 (10th Cir. 1982), Automated Marketing Systems, Inc. v. Martin, 467 F.2d 1181 (10th Cir. 1972), and Crowther v. Seaborg, 415 F.2d 437 (10th Cir. 1969). Defendants maintain that none of the aforementioned elements were satisfied, and that the Trustee's application for a preliminary injunction should, therefore, have been denied.

[1] Defendants challenge the determination that the Trustee established a probability of success on the merits of the case.

To establish constructive fraud and avoid the transfer from Kenneth E. Tureaud to himself and his wife under section 548 of the Bankruptcy Code, the Trustee must show (a) that the transfer was made within one year before the date of filing of the petition; (b) that the Debtor received less than a reasonably equivalent value in exchange for the transfer; and (c) that the Debtor was (i) insolvent on the date of transfer or became insolvent as a result of the transfer, or (ii) intended to incur or believed he would incur debts beyond his ability to repay them as they matured. 11 U.S.C.A. §548 (1978).

It is not disputed that the transfer occurred in April of 1982, within one year of the filing of the Trustee's petition. Yet, defendants contest the finding that Tureaud received less than a reasonably equivalent value for the exchange of his property, arguing that Sylvia Tureaud's abandonment of her plans for separation from her husband, Kenneth Tureaud, was sufficient consideration for the transfer. The Trustee observes that counsel for defendants stipulated before the Bankruptcy Court on April 27, 1983, that Sylvia Tureaud never assumed or guaranteed any of Kenneth Tureaud's debts with respect to the property transfer, nor gave any tangible consideration to support the property transfer. Such stipulation, however, bears no relation to the intangible consideration, abandonment of separation plans, allegedly given to Kenneth Tureaud from his wife for the property exchange.

Nevertheless, it does not appear that the exchange of property for a promise to refrain from separation plans is the type of consideration contemplated by section 548 of the Bankruptcy Code. The term, "value", is defined in section 548 to include property, satisfaction, or the securing of a present or antecedent debt of the debtor, but not an unperformed promise to furnish support to the debtor or a relative of the debtor. 11 U.S.C.A. §548(d)(2)(A). While this Court does not equate an agreement not to separate with "love and affection" and "marital harmony", consideration which was declared insufficient under section 548 in the case of Walker v. Treadwell (In re Treadwell) 699 F.2d 1050 (1983), if "the object of section 548 is to prevent the debtor from depleting the resources available to creditors through gratuitous transfers of the debtor's property," Id. at 1051, the Bankruptcy Court did not err in finding a reasonable probability that the transfer of property from Kenneth Tureaud to himself and his wife was in violation of the statute.

Defendants contest the sufficiency of the evidence which led the Bankruptcy Court to determine that the Trustee would succeed in proving the third element of a fraudulent transfer under section 548, requiring a showing of insolvency on the date of transfer. The Trustee's certified public accountant, Phil Ford ("Ford"), testified before the Bankruptcy Court in accordance with a document prepared by him entitled, "Schedule of Assets and Liabilities and Accountant's Report - Kenneth E. Tureaud - April 30, 1982," revealing that Tureaud's liabilities exceeded

his assets by approximately \$4,000,000, and that he was insolvent at the time of transfer. Defendants maintain that such evidence was insufficient for (a) failing to follow the generally accepted accounting principle of including assets and liabilities at their then current market values on the debtor's personal financial statement, and (b) failing to include the fair market value of the debtor's corporate stock as an asset on the debtor's personal financial statement.

Ford's report admitted that its construction of Tureaud's financial statement was without a determination of the estimated values of his assets and liabilities because of a lack of available accounting information. The report states that "the effect of these departures from generally accepted accounting principles has not been determined", and further suggests that a different conclusion about Tureaud's assets and liabilities might have been reached had they had access to all relevant accounting information. This factor was, therefore, considered by the Bankruptcy Court when it determined that the Trustee would probably succeed on the merits of this case, and was obviously not of such magnitude to sway the court to rule otherwise. There is no evidence that this finding was clearly erroneous or represented an abuse of the Bankruptcy Court's discretion.

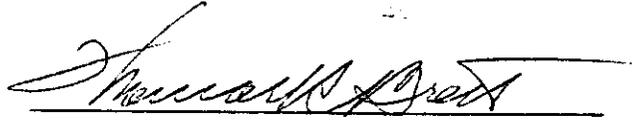
It appears that the evidence regarding Tureaud's alleged insolvency was sufficient to find a substantial likelihood of a fraudulent transfer under section 548. Note eight (8) of Ford's report concedes the failure to include real estate value at

approximately \$10,312,500 as an asset of Tureaud's personal financial statement. The report explains that the aforementioned amount was deleted from the list of Tureaud's assets because supplementary schedules revealed that the subject real estate was owned by various corporations in which Tureaud merely held an ownership position. Ford further explained on cross-examination that the value of the real estate was eliminated as a personal asset of Tureaud because Tureaud had listed separately the market value of his stock in those corporations. The Bankruptcy Court did not err in heeding Ford's undisputed admonition regarding generally accepted accounting principles in the preparation of personal financial statements, to-wit, that it is inappropriate to list corporate assets as one's personal assets, regardless of one's percentage of ownership in the corporation. The evidence before the Bankruptcy Court was sufficient to find that the Trustee would succeed in proving that Tureaud was insolvent on the date of transfer.

[3][4][5] This Court is satisfied that the Bankruptcy Court did not err in its finding that the Trustee would suffer irreparable injury unless the preliminary injunction was granted, that the threatened injury to the estate outweighed the potential damage to the defendants, and that the public interest would not be adversely affected. The evidence showed that irreparable injury to the Trustee would result if injunctive relief was not granted, and that no possibility of injury to the defendants or the public existed. Furthermore, this Court is satisfied that

the Bankruptcy Court made sufficient findings of fact and conclusions of law under Rule 52(a) of the Federal Rules of Civil Procedure. The Bankruptcy Court did not err in granting plaintiff's application for a preliminary injunction.

In accordance with the foregoing, it is entered this 24th day of July, 1985, that the order of the Bankruptcy Court dated April 25, 1983, denying defendants' motion to dismiss, and the order dated April 28, 1983, granting plaintiff's application for a preliminary injunction, is hereby affirmed.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

CHESTER PHILLIPS; WANDA PHILLIPS;
DEANNA PHILLIPS, by and through
her father and next friend,
CHESTER PHILLIPS; DUANE PHILLIPS;
JANET PHILLIPS,

Plaintiffs,

vs.

BOARD OF COUNTY COMMISSIONERS
OF CREEK COUNTY, OKLAHOMA, BOB
WHITWORTH, JERRY SILER,

Defendants.

JUL 24 1985

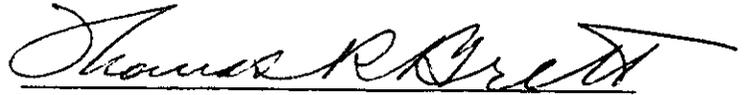
Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 84-C-865-B

ORDER

On June 27, 1985, the Court granted defendants' motion to dismiss and gave plaintiffs until July 9, 1985 in which to file an amended complaint comporting with the holding in City of Oklahoma City v. Tuttle, No. 83-1919 (U.S.S.Ct. June 3, 1985). Plaintiffs have not filed such a complaint. Therefore, the action is hereby dismissed.

IT IS SO ORDERED this 23rd day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 24 1985

JACK D. SILVER, CLERK
DISTRICT COURT

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	
)	
ROBERT L. McCLELLAN,)	
)	
Defendant.)	CIVIL ACTION NO. 85-C-191-C

DEFAULT JUDGMENT

This matter comes on for consideration this 24 day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Robert L. McClellan, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Robert L. McClellan, acknowledged receipt of Summons and Complaint on March 15, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Robert L. McClellan, for the principal sum of \$621.30, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from September 30, 1983, and \$.68 per month from

January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 7.60 percent from date of judgment until paid, plus costs of this action.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE ~~JUL 24 1985~~
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT
~~FILED~~

~~MAY 24 1985~~

Jack C. Silver, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 URAL LEE BROWN, a/k/a URAL)
 BROWN; RUTH ANN BROWN;)
 BARBARA J. BERRY; FIDELITY)
 FINANCIAL SERVICES, INC.,)
 an Oklahoma Corporation;)
 and HOUSEHOLD FINANCE)
 CORPORATION, a Delaware)
 Corporation,)
)
 Defendants.)

CIVIL ACTION NO. 84-C-729-E

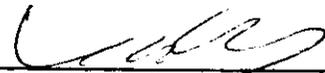
STIPULATION OF DISMISSAL

COME NOW the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Fidelity Financial Services, Inc., by their attorney, Don E. Gasaway, and hereby stipulate and agree that this action may be dismissed pursuant to Rule 41, Federal Rules of Civil Procedure.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


NANCY NESBITT BLEVINS
Assistant United States Attorney


DON E. GASAWAY
Attorney for Defendant
Fidelity Financial Services, Inc.

IN THE UNITED STATES DISTRICT COURT FOR THE **FILED**
NORTHERN DISTRICT OF OKLAHOMA

JUL 24 1985

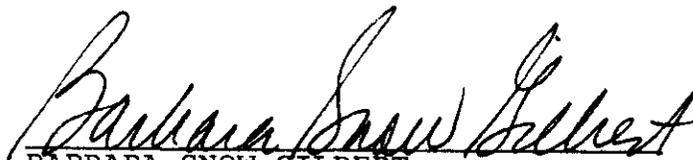
GREENING DONALD CO., LTD.,)
)
 Plaintiff,)
)
 v.)
)
 TRANSMISSION STRUCTURES,)
 LIMITED,)
)
 Defendant.)

JACK C. SILVER, CLERK
U. S. DISTRICT COURT

No. 85-C-574-B

Notice of DISMISSAL WITHOUT PREJUDICE

COMES NOW the plaintiff, Greening Donald Co., Ltd., and dismisses the above styled and entitled action against defendant, Transmission Structures, Limited, without prejudice to the filing of any further proceedings.



BARBARA SNOW GILBERT
KEVIN D. GORDON

Of the Firm:

CROWE & DUNLEVY
1800 Mid-America Tower
20 North Broadway
Oklahoma City, Oklahoma 73102
(405) 235-7743

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on the 23rd day of July, 1985, a true and correct copy of the above and foregoing Dismissal Without Prejudice was mailed, postage prepaid, to Thomas J. McGeady, Logan, Lowry, Johnston, Switzer, West & McGeady, 101 South Wilson, P.O. Box 558, Vinita, Oklahoma 74301, Attorneys for Defendant.

Barbara Snow Gilbert

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 24 1985

RICHARD SLATER and)
RICHARD T. GARRISON,)
)
Plaintiffs,)
)
v.)
)
JOSEPH L. HULL, III,)
)
Defendant.)

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

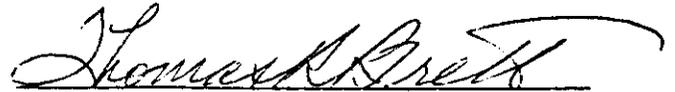
NO. C-83-940-B

AMENDED JOURNAL ENTRY OF JUDGMENT

NOW on this 3rd day of January, 1985, Plaintiffs' Motion for Judgment, pursuant to the provisions of the June 12, 1984 Joint Application to Dismiss [hereinafter referred to as the "Stipulation"] and F.R.C.P. 60(B)(3) comes on for hearing. The Court finds that the defendant has failed to comply with the provisions of the Stipulation; inasmuch as the defendant has failed to make the September 10, 1984 payment in the amount of \$2,000.00 and the October 10, 1984 payment in the amount of \$2,500.00.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiffs are hereby granted judgment against the defendant in the specified sum of \$4,500.00 plus interest thereon from the September 10, 1984 breach of the provisions of the Stipulation to the date of this Judgment at the rate of 6% per annum, pursuant to 15 O.S. 1981, §266, plus post-judgment interest at the rate of 9.08% as provided by 28 U.S.C. §1961.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon defendant's payment of this Judgment, the parties shall execute the Mutual Release annexed hereto as Exhibit "A", the execution of which was provided for in said Stipulation; whereupon, the Plaintiffs shall file a Release and Satisfaction of Judgment.

A handwritten signature in cursive script, reading "Thomas R. Brett". The signature is written in black ink and is positioned above a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

RICHARD SLATER, and)
RICHARD T. GARRISON,)
)
) Plaintiffs,)
)
vs.) Case No. C-83-940-B
)
JOSEPH L. HULL, III,)
)
) Defendant.)

MUTUAL RELEASE

COME NOW the parties this ___ day of _____, 1985, and hereby stipulate, bargain and agree to the following terms of this MUTUAL RELEASE.

1. WHEREAS, Richard Slater and Richard T. Garrison, on behalf of themselves, their attorneys, heirs, assignees, and partners enter into this Release for the good and valuable consideration of \$12,500.00 and Defendant's dismissal of his Counterclaim;

2. WHEREAS, Joseph L. Hull, III, on behalf of himself, his attorneys, heirs, and assignees enters into this Release for the good and valuable consideration of Plaintiffs' dismissal of the above entitled and numbered action; and

3. WHEREAS, the parties on behalf of themselves and the persons described in Paragraphs 1 and 2, supra, desire to amicably resolve ALL disputes between them pertaining to any subject matter (including but not limited to those presently being litigated in the above entitled and numbered action);

4. NOW THEREFORE, on behalf of themselves and the persons described in Paragraphs 1 and 2, supra, the parties hereby:

(A) promise that no claim shall be made and no litigation or proceeding shall be commenced by any person, described in Paragraphs 1 and 2, supra, against any person described in Paragraphs 1 and 2, supra, under any theory (in law or in equity) praying for damages or equitable relief of any kind, (whether or not related to the above entitled and numbered action); it being the intention of the parties hereto and the persons described in Paragraphs 1 and 2, supra, that upon the execution of this Mutual Release the parties and the persons described in Paragraphs 1 and 2, supra, have settled ALL differences which they had in the past, have in the present, or might have had against each other;

(B) release and forever discharge each other and any person described in Paragraphs 1 and 2, supra, of any and all claims, acts, damages, costs, attorneys fees, demands, causes of actions, or liabilities (in either law or equity); it being the intention of the parties hereto and the persons described in Paragraphs 1 and 2, supra, that upon the execution of this Mutual Release the parties and the persons described in Paragraphs 1 and 2, supra, have settled ALL differences which they had in the

past, have in the present, or might have had against each other;

- (C) agree to indemnity, to bear the expense of the defense including all attorneys fees and costs, and to hold harmless any person described in Paragraphs 1 and 2, supra from any action, claim, demand, litigation, proceeding or judgment brought by any person described in Paragraphs 1 and 2, supra, against any person described in Paragraphs 1 and 2, supra, in violation of Paragraph 4(A) or Paragraph 4(B), supra;
- (D) acknowledge that the suppositions prompting the execution of this Release may be different from the facts, but the parties and any person described in Paragraphs 1 and 2, supra, further acknowledge their assumption of the risk that any supposition prompting this settlement may be different from the true situation and hereby agree that this Mutual Release shall in all respects be effective and not subject to termination or rescission because of any such mistaken belief; it being the intention of the parties hereto and the persons described in Paragraphs 1 and 2, supra, that upon the execution of this Mutual Release, the parties and the persons described in Paragraphs 1 and 2, supra, have settled ALL differences which they had in the past, have in the present, or might have had against each other;

(E) admit that they have been represented by counsel in the negotiation and preparation of this Release and each has fully read this Mutual Release, has had it fully explained by counsel, and is fully aware of the contents and legal significance of this Mutual Release.

5. This Release shall not be construed in favor of or against any party hereto, or any person described in Paragraphs 1 and 2, supra, but shall be construed as if all involved herein prepared this Release.

6. This Release shall inure to the benefit of, and be binding upon, each and every one of the parties hereto and the persons described in Paragraphs 1 and 2, supra, and the heirs, personal representatives, assignees, and successors in interest of each party hereto and the persons described in Paragraphs 1 and 2, supra.

7. If any term, provision, covenant, or condition of this Release is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Release shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

8. All parties hereto and the persons described in Paragraphs 1 and 2, supra, agree that this writing embodies their entire agreement, and that no representations, promises, inducements, or consideration of any kind have been made by anyone other than:

- (A) the consideration recited, supra, and
- (B) the promises made herein.

9. The settlement documented by this Release is the compromise of doubtful and disputed claims and this Release is not to be construed as an admission of liability; each party hereto expressly denying liability to any other party.

PLAINTIFFS:

Richard Slater

Richard T. Garrison

On this ___ day of _____, 1985, before me personally appeared Richard Slater, known to me to be the person described herein who voluntarily executed the foregoing instrument and acknowledged to me that he voluntarily executed the same on behalf of himself and his attorneys, heirs, assignees, and partners.

Notary Public

My Commission Expires:

On this ___ day of _____, 1985, before me personally appeared Richard T. Garrison, known to me to be the person described herein who voluntarily executed the foregoing instrument and acknowledged to me that he voluntarily executed the same on behalf of himself and his attorneys, heirs, assignees, and partners.

Notary Public

My Commission Expires:

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 23 1985

WESLEY R. MCKINNEY,

Petitioner,

v.

HARRY CONNOLLY, United States
Marshal, Northern District of
Oklahoma,

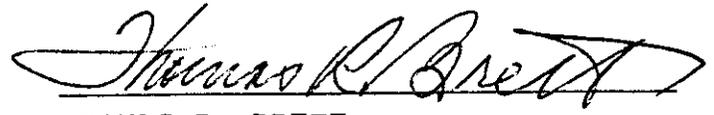
Respondent.

JACK C. SILVER, CLERK
U.S. DISTRICT COURT
No. 85-C-611-B

ORDER OF DISMISSAL

The captioned matter is hereby dismissed as it is moot, the contemplated action of the Bankruptcy Court in petitioner's petition having not taken place.

IT IS SO ORDERED this 23rd day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

OM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 23 1985

MIAMI MOTORCYCLES, INC., d/b/a)
MIAMI HONDA SALES,)
)
Plaintiff,)
)
vs.)
)
REPUBLIC WESTERN INSURANCE)
COMPANY,)
)
Defendant.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No.: 85-C-9-E

ORDER OF DISMISSAL

ON This 22 day of July, 1985, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

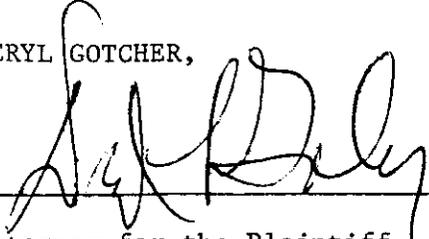
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the plaintiff filed herein against the defendant be and the same hereby is dismissed with prejudice to any future action.

S/ JAMES O. ELISON

JUDGE, DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF OKLAHOMA

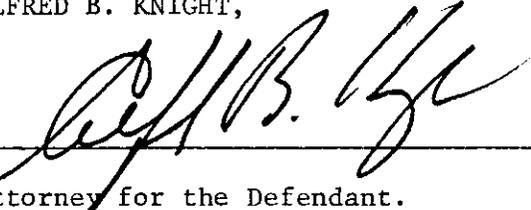
Approvals:

DERYL GOTCHER,



Attorney for the Plaintiff,

ALFRED B. KNIGHT,



Attorney for the Defendant.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 RODNEY W. SLAUGHTER,)
)
 Defendant.)

JUL 23 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 85-C-367-E

DEFAULT JUDGMENT

This matter comes on for consideration this 22 day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Rodney W. Slaughter, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Rodney W. Slaughter, was served with Summons and Complaint on May 22, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Rodney W. Slaughter, for the principal sum of \$321.53, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from August 22, 1983, and \$.68 per month from

January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 7.60 percent from date of judgment until paid, plus costs of this action.

S/ JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

COLORGRAPHICS CORPORATION,)
an Oklahoma corporation,)
)
Plaintiff,)
)
vs.) No. 85-C-444-E
)
HUGHES AD HOUSE, INC.,)
a California corporation,)
)
Defendant.)

FILED

JUL 23 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

On this 5th day of July, 1985, the Complaint of plaintiff, ColorGraphics Corporation ("COLORGRAPHICS") came on for hearing by stipulation and agreement of the parties hereto. Defendant, Hughes Ad House, Inc., a California corporation, ("HUGHES") appearing by its attorney, Paul Morgan; COLORGRAPHICS appearing by its attorneys, Newton & O'Connor, by G. W. Newton; both parties having announced ready, the Court having heard the statement of claim of plaintiff, read and considered the stipulation of the parties together with the warrant of attorney filed herein and made a part hereof by this reference; and being fully advised in the premises finds that judgment should be entered in favor COLORGRAPHICS and against HUGHES in the amount of \$41,659.47, plus interest, costs and attorney's fees.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that COLORGRAPHICS have and is hereby granted judgment against HUGHES in the amount of \$41,659.47 plus interest thereon at the rate of twelve percent (12%) per annum from June 1, 1985; a reasonable attorney's fee in the sum of \$3,000; and all costs of this action, all for which let execution issue.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties have agreed that HUGHES may pay this judgment, interest, attorney's fees and costs by payment to COLORGRAPHICS of the sum of \$5,000.00 per month commencing on or before June 18,

1985 and each month thereafter until paid in full which payments shall be made payable to COLORGRAPHICS Corporation and Newton & O'Connor Attorneys at Law and delivered to:

G. W. Newton, Esquire
NEWTON & O'CONNOR
5100 East Skelly Drive, Suite 610
Tulsa, Oklahoma 74135

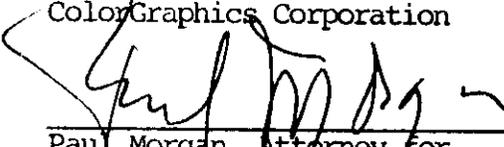
IT IS FURTHER ORDERED, that in the event any installment provided for herein is not paid when due, the entire unpaid balance of this judgment shall be due and owing immediately without further notice to HUGHES.

BY JAMES O. FINCH,

JUDGE OF THE UNITED STATES DISTRICT COURT

APPROVED:

G. W. NEWTON, Attorney for
ColorGraphics Corporation


Paul Morgan, Attorney for
Hughes Ad House, Inc.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 23 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

LOUIS PORTER,)
)
 Plaintiff,)
)
 vs.)
)
 SAM BELZBERG, et al,)
)
 Defendants.)

Case No. 82-C-742-BT

ADMINISTRATIVE CLOSING ORDER

The Plaintiff having filed its petition in bankruptcy and these proceeding being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other prupose required to obtain a final determination of the litigation.

IF, within 60 days of a final adjudication of the bankruptcy proceedings, the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

IT IS SO ORDERED this 23rd day of JULY, 1985.


UNITED STATES DISTRICT JUDGE
THOMAS R. BRETT

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 23 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

RAYMOND HERSCHEL JOHNSON,)
a/k/a KHABILAH ANWAR-NOOR)
MUHAMMED,)

Plaintiff,)

v.)

TIM WEST, WARDEN, et al.,)

Defendants.)

No. 83-C-862-C

ORDER

On April 30, 1985 the Magistrate conducted a settlement conference in which Plaintiff participated pro se by telephone conference call and the Defendant participated by telephone conference call through Warden John Makowski and Rozia McKinney, Assistant Attorney General. The parties agreed to settle the case as more fully set forth in the April 30, 1985 minute.

Plaintiff wrote former Magistrate Robert S. Rizley a letter dated July 12, 1985 which has been filed herein. In Plaintiff's letter he stated that the case may be dismissed pursuant to the agreement of the parties.

It is therefore Ordered that this case is dismissed with prejudice.

Dated this 23 day of July, 1985.


H. DALE COOK
CHIEF JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 23 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

GREENLAWN, INC., a Kentucky corporation,
Plaintiff,
vs.
EQUIDYNE INDUSTRIES, INC.,
an Oklahoma corporation,
Defendant.

No. 85-C-232-B

ORDER OF DISMISSAL

Pursuant to the Stipulation for Dismissal filed herein by the parties, the Court hereby orders that this action be and it is hereby dismissed with prejudice to the refiling.

S/ THOMAS R. BRETT

THOMAS R. BRETT,
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 23 1985

R. K. PIPE & SUPPLY, INC.,)
)
 Plaintiff,)
)
 vs.)
)
 MELVIN McGEE, a/k/a MELRAY)
 DRILLING COMPANY,)
)
 Defendant.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 82-C-821-E

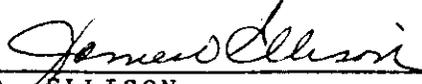
JUDGMENT

This action came on for trial before the Court and a jury, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly tried and the jury having rendered its verdict,

IT IS ORDERED AND ADJUDGED that the Plaintiff R. K. Pipe & Supply, Inc. take nothing from the Defendant Melvin McGee, that the action be dismissed on the merits, and that the Defendant Melvin McGee recover of the Plaintiff R. K. Pipe & Supply, Inc., his costs of action.

IT IS FURTHER ORDERED AND ADJUDGED that the Defendant Melvin McGee a/k/a Melray Drilling Company recover judgment of the Plaintiff R. K. Pipe & Supply, Inc., on the counterclaim in an amount of damages to be determined at a later proceeding and that Defendant be awarded costs of action.

DATED at Tulsa, Oklahoma this 23^d day of June, 1985.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

JUL 23 1985

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JEAN GAINES,)
)
 Plaintiff,)
)
 vs.)
)
 Sun Refining & Marketing Company)
)
 Defendants.)

Case No. 85-C-204-E

ORDER

On June 6, 1985, the Motion to Dismiss of Defendant Sun Oil Company, Inc., a Delaware corporation (hereinafter "Sun Oil") was heard before the Honorable James Ellison, United States District Court Judge, and after the presentation of arguments and statements of counsel, the Court finds as follows:

1. Sun Oil is a name reserved by the Sun Company, Inc., (hereinafter "Sun"), which has no employees and which conducts no business.

2. Sun is a holding company which does not transact business in the State of Oklahoma.

3. Neither Sun Oil nor Sun is a proper party to this lawsuit and Plaintiff's cause of action should be dismissed with prejudice against Sun Oil and Sun.

4. Sun Refining and Marketing Company (hereinafter "Sun Refining") is a proper party to this action, the Plaintiff properly served her Amended Complaint upon them and Sun Refining has filed its Answer of record in this case.

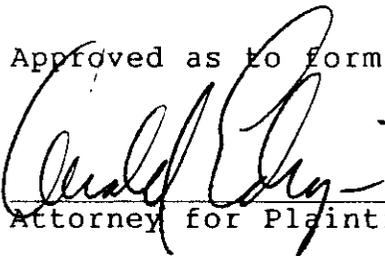
5. The Amended Complaint filed against Sun Refining relates back to the date that the Plaintiff filed her complaint against Sun Oil.

WHEREFORE, in light of the findings of this Court, it is ORDERED that this action be dismissed with prejudice against Sun Oil and Sun; IT IS FURTHER ORDERED that this case proceed against Sun Refining as if Sun Refining had been named a party on the date that Plaintiff's initial Complaint was filed.

S/ JAMES O. ELLISON

United States District Judge

Approved as to Form:



Attorney for Plaintiff



Attorneys for Defendants

Entered

Exhibit "A"

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GENERAL ELECTRIC COMPANY)
)
 Plaintiff,)
)
 v.)
)
 W. M. SMITH ELECTRIC COMPANY)
 OF OKLAHOMA, INC., an Oklahoma)
 corporation, W. M. SMITH ELEC-)
 TRIC COMPANY, a Texas corpora-)
 tion, POWER ELECTRIC COMPANY,)
 INC., a Mississippi corpora-)
 tion, EVANS ELECTRIC, INC., an)
 Oklahoma corporation,)
 MID AMERICA'S PROCESSING SER-)
 VICES, INC., an Oklahoma cor-)
 poration, RELIANCE ELECTRIC)
 COMPANY, a Delaware corpora-)
 tion, CARL PONS ELECTRIC MOTOR)
 SERVICES, INC., a Texas corp-)
 oration, ALLEN M. GRAYSON,)
 JR., ALLEN M. GRAYSON, III,)
 LYNN WHITEFIELD, TERRY RHINE,)
 and BRIAN JACOBS)
)
 Defendants.)

No. 83-C-1069-E

FILED

JUL 25 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

PERMANENT INJUNCTION

On this 23RD day of July, 1985, the Joint Application for Permanent Injunction of the plaintiff, General Electric Company ("General Electric"), and the defendant, Reliance Electric Company ("Reliance") comes on for hearing. In their Joint Application for Permanent Injunction, General Electric and Reliance have stipulated and agreed that Reliance, its agents, and employees should be permanently enjoined from using any proprietary technical or business information or trade secrets concerning large motors and generators which may have been misappropriated from General Electric by Brian Jacobs, a former

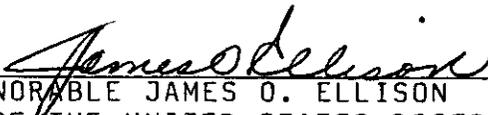
employee of Reliance, and that Reliance, its agents, and employees be further permanently enjoined from disclosing to third parties any proprietary technical or business information or trade secrets which may have been misappropriated from General Electric.

Reliance denies it has or has had in its possession any proprietary technical or business information or trade secrets relating to rewinding or reworking large motors and generators belonging to General Electric. Further, Reliance states that it has no evidence concerning the accuracy of General Electric's allegation against the other defendants to this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant, Reliance Electric Company, its agents and employees be and the same are hereby permanently enjoined from using any proprietary technical or business information or trade secrets which may have been misappropriated from General Electric by Brian Jacobs relating to rewinding or reworking large motors and generators during his employment by Reliance.

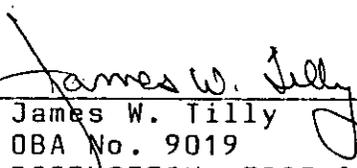
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, Reliance Electric Company, its agents and employees be and the same are hereby permanently enjoined from disclosing to third parties any proprietary technical or business information

or trade secrets relating to rewinding and reworking large motors and generators which may have been misappropriated from General Electric by Brian Jacobs during his employment by Reliance.



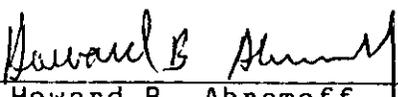
FOR HONORABLE JAMES O. ELLISON
JUDGE OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

APPROVED AS TO FORM AND CONTENT

By: 

James W. Tilly
OBA No. 9019
ROSENSTEIN, FIST & RINGOLD

Attorneys for General Electric
Company

By: 

Howard B. Abramoff

Attorney for Reliance Electric
Company

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 22 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

MARIAN L. OLSON,
P.O. Box 50460
Billings, Montana 80549

Plaintiff

vs.

Civil Action No. 85-B-646-B

DONALD P. HODEL,
Secretary
United States Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

Defendant

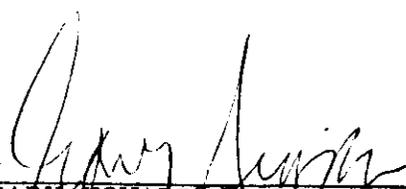
DISMISSAL WITH PREJUDICE

TO THE CLERK:

You will please dismiss the above-captioned action, with prejudice. Plaintiff has accepted an earlier settlement offer from Defendant, and all outstanding issues between the parties are now resolved.

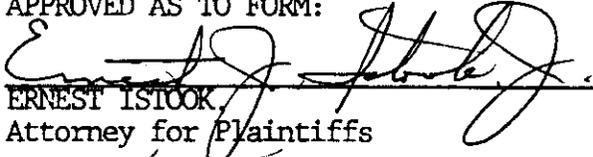

JOE FRANCIS
Francis, Francis & Machledt
Williams Center Tower I
1 West 3rd Street
Tulsa, Oklahoma 74103
(918) 583-4326

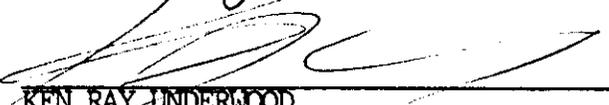
Local Counsel for Plaintiff


GARY HOWARD SIMPSON
7315 Wisconsin Ave., 300 E
Bethesda, MD 20814
(301) 656-7013

Attorney for Plaintiff

APPROVED AS TO FORM:


ERNEST ISTOOK,
Attorney for Plaintiffs


KEN RAY UNDERWOOD,
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 22 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

PATTY PRECISION PRODUCTS,

Plaintiff,

vs.

No. 78-C-213-E

BROWN & SHARPE MANUFACTURING
COMPANY, GENERAL ELECTRIC,
AND TOOLS CAPITAL CORPORATION,

Defendants.

JUDGMENT

This action came on for jury trial before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly tried and a decision having been duly rendered by the jury,

IT IS ORDERED AND ADJUDGED that the Plaintiff Patty Precision Products recover of the Defendant Brown & Sharpe Manufacturing Company and Tools Capital Corporation the sum of \$154,374.09 with interest thereon from the date of judgment at the statutory rate of 7.60% and costs of action.

IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff Patty Precision take and recover nothing as to its claims against Defendant General Electric, that the action be dismissed on the merits as to Defendant General Electric, and that the Defendant General Electric recover of the Plaintiff its costs of action.

IT IS FURTHER ORDERED AND ADJUDGED that Defendant Tools Capital take and recover nothing on its counterclaim against

Plaintiff, Patty Precision Products, and that Plaintiff, Patty Precision Products, recover of the Defendant Tools Capital its costs of action.

DATED at Tulsa, Oklahoma this 21^d day of July, 1985.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 22 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

ROSCOE LARRETTE MORRIS, II,)	
)	
Plaintiff,)	
)	
vs.)	No. 84-C-91-C
)	
ARLIN BATES, HERB CALVERT,)	
ET AL.,)	
)	
Defendants,)	

O R D E R

Now before the Court for its consideration is plaintiff's Motion for dismissal of the pleadings now pending without prejudice to plaintiff, filed on May 6, 1985. On May 7, 1985, the Magistrate held a telephone conference on this motion, at which time defendants objected to the dismissal and asked the Court to rule on defendants' Motion for Summary Judgment. Defendants were then granted until May 17, 1985 to file their brief in opposition to plaintiff's Motion to Dismiss without prejudice, and plaintiff was granted leave to respond. However, the defendants have failed to file their brief in opposition.

Rule 14(a) of the local Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) Briefs. Each motion, application and objection filed shall set out the specific point or points upon which the motion is brought and shall be accompanied by a concise brief. Memoranda in opposition to such motion and objection shall be filed within ten (10) days after the filing of the motion or objection, and any reply memoranda shall be filed within ten (10) days thereafter. Failure to comply with this paragraph will constitute waiver of objection by the party not

complying, and such failure to comply will constitute a confession of the matters raised by such pleadings.

Therefore, in that defendants have failed to comply with local Rule 14(a) and no responsive pleading has been filed to date herein, the Court concludes that defendants have waived any objection to said motion and have confessed the matters contained therein.

Accordingly, it is the Order of the Court that plaintiff's Motion to dismiss this action in all respects should be and hereby is sustained.

IT IS SO ORDERED this 22 day of July, 1985.


H. DALE COOK
Chief Judge, U. S. District Court

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 22 1985

DENNIS A. SKINNER,)	
)	
Plaintiff,)	
)	
vs.)	No. 82-C-1118-C
)	
TOTAL PETROLEUM, INC.,)	
a Michigan corporation,)	
BILL NELSON AND RICHARD CRAIG,)	
)	
Defendants.)	

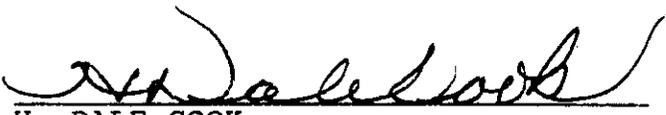
JACK C. SILVER, CLERK
U.S. DISTRICT COURT

J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of Law filed simultaneously herein, judgment is hereby entered in favor of plaintiff Dennis A. Skinner and against defendant Total Petroleum, Inc. in the amount of \$40,251.43.

Absent an affidavit from plaintiff's attorney listing the factors enumerated in Waters v. Wisconsin Steel Works of Int'l. Harvester, 502 F.2d 1309, 1322 (7th Cir. 1974), the amount of the attorney's fee cannot be determined. Plaintiff is hereby given twenty (20) days within which to submit proper documentation to the Court. Defendant is given 10 days thereafter in which to respond.

IT IS SO ORDERED this 22nd day of July, 1985.


 H. DALE COOK
 Chief Judge, U. S. District Court

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 C. M. HOLLINGWORTH, JR.,)
)
 Defendant.)

JUL 18 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 85-C-371-E

DEFAULT JUDGMENT

This matter comes on for consideration this _____ day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, C. M. Hollingworth, Jr., appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, C. M. Hollingworth, Jr., was served with Summons and Complaint on May 14, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, C. M. Hollingworth, Jr., for the principal sum of \$600.40, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.68 per month from September 28, 1984, until judgment,

- Entered

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

CRUMIE G. DeLOZIER,)
)
 Plaintiff,)
)
 -vs-)
)
 OLD REPUBLIC INSURANCE COMPANY,)
 a foreign corporation,)
)
 Defendant.)

JUL 18 1985

JACK G. SILVER, CLERK
U.S. DISTRICT COURT

No. 85-C-573-C

ORDER GRANTING PLAINTIFF DEFAULT JUDGMENT AGAINST DEFENDANT

Now on this 18th day of July, 1985, upon the Plaintiff's Application for Entry of Default Judgment, having reviewed the pleadings and papers filed herein, the Court finds:

1. The Court has jurisdiction to hear this action and has jurisdiction over the Defendant herein.
2. The Defendant, OLD REPUBLIC INSURANCE COMPANY, has failed to appear within the time allowed by law, and the Clerk of this Court has entered the default of said Defendant.
3. The allegations of fact contained in the Plaintiff's Complaint filed herein shall be taken as true.
4. The Plaintiff has expended certain sums for legal expense and the settlement of litigation, for which the Defendant is liable to the Plaintiff.
5. After deducting the amount of \$10,000.00 to be paid by Plaintiff, the remaining expenditures of the Plaintiff for legal expense and settlement of litigation, for which the Defendant is liable, and the dates of expenditures, were as follows:

\$2,850.75

November 14, 1984

18,446.40
185,000.00
5,143.45
\$211,440.60

March 6, 1985
March 6, 1985
June 20, 1985

6. The sums set forth hereinabove should bear interest at the rate of six percent (6%) per annum from the respective dates of expenditure until this date.

7. Regarding the claim of the Plaintiff and the lawsuit against the Plaintiff, all set forth in the Plaintiff's Complaint filed herein, the Defendant acted with and was motivated by bad faith, by reason of which the Plaintiff is entitled to recover exemplary damages in the sum of \$1,000,000.00.

8. The Plaintiff is entitled to judgment against the Defendant for all sums set forth hereinabove, and such judgment should bear interest at the rate of fifteen percent (15%) per annum from this date until paid.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff, CRUMIE G. DeLOZIER, be and hereby is granted judgment against the Defendant, OLD REPUBLIC INSURANCE COMPANY, for the principal sum of \$211,440.60 with prejudgment interest thereon from the dates of expenditure set forth hereinabove, until this date, and for exemplary damages in the sum of \$1,000,000.00, all with postjudgment interest thereon at the rate of ^{11.60%} ~~fifteen percent (15%)~~ per annum from this date until paid.

(Signed) H. Dale Cook

HONORABLE H. DALE COOK
United States District Judge

4. LaBerge has failed to plead or otherwise defend the action, and is in default.

5. That Motorola shall recover from LaBerge the sum of \$13,616.12, plus interest at the rate of 10% per annum from January 1, 1981 until judgment, the costs of this action, and all attorneys' fees associated with the collection of this debt.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that default Judgment is rendered in favor of Plaintiff Motorola, Inc. on its claim against Defendant Hiliare J. LaBerge, and Motorola, Inc. is awarded the sum of \$13,616.12, together with interest thereon at the rate of \$10% per annum from January 1, 1981 until the date of this default judgment, the costs of this action, and all attorneys fees associated with the prosecution of this claim and collection of this debt.

DATED this 18th day of July, 1985.



JUDGE OF UNITED STATES DISTRICT
COURT

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL 18 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 vs.)
)
 ONE 1974 KINGSCRAFT)
 HOUSEBOAT SERIAL NO. 24448;)
 OK5741DA AND TOOLS AND)
 APPURTENANCES LOCATED)
 THEREON)
)
 Defendant.)

No. 83-C-849-C

J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of law filed simultaneously herein, Judgment is entered in favor of plaintiff United States of America and against the defendant houseboat and the claimant Graham Lee Kendall.

IT IS SO ORDERED this 18 day of July, 1985.


H. DALE COOK
Chief Judge, U. S. District Court

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 17 1985

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

EDWIN L. NORRID,)

Defendant.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 85-C-556-E

AGREED JUDGMENT

This matter comes on for consideration this 17 day
of July, 1985, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney, and the Defendant, Edwin L. Norrid, appearing pro se.

The Court, being fully advised and having examined the
file herein, finds that Defendant, Edwin L. Norrid, was served
with Summons and Complaint. The Defendant has not filed his
Answer but in lieu thereof has agreed that he is indebted to the
Plaintiff in the amount of \$284.26, plus the accrued interest of
\$315.77 as of May 1, 1985, plus interest at 7 percent per annum
from May 1, 1985, until judgment, plus interest thereafter at the
legal rate from the date of judgment until paid, plus the costs
of this action.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that
the Plaintiff have and recover judgment against the Defendant,
Edwin L. Norrid, for the principal sum of \$284.26, plus the
accrued interest of \$315.77 as of May 1, 1985, plus interest at 7

percent per annum from May 1, 1985, until judgment, plus interest thereafter at the current legal rate of 7.60 percent from the date of judgment until paid, plus the costs of this action.

ST JAMES O. ELISON

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


NANCY NESBITT BLEVINS
Assistant U.S. Attorney


EDWIN L. NORRID

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 17 1985

JACK D. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ROBERT G. HUGHES,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-30-C

AGREED JUDGMENT

This matter comes on for consideration this 16th day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Robert G. Hughes, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that Defendant, Robert G. Hughes, was served with Summons and Complaint on May 2, 1985. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount of \$693.50, plus the accrued interest of \$495.01 as of December 22, 1984, plus interest at 7 percent per annum from December 22, 1984, until judgment, plus interest thereafter at the legal rate from the date of judgment until paid, plus the costs of this action.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and reccever judgment against the Defendant, Robert G. Hughes, for the principal sum of \$693.50, plus the accrued interest of \$495.01 as of December 22, 1984, plus

interest at 7 percent per annum from December 22, 1984, until judgment, plus interest thereafter at the current legal rate of 7.60 percent from the date of judgment until paid, plus the costs of this action.

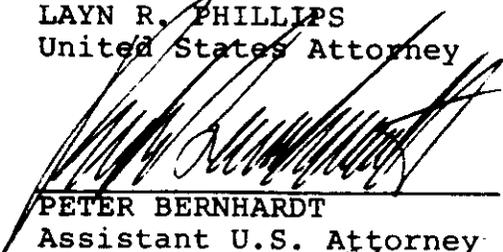
H. DALE COOK

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


PETER BERNHARDT
Assistant U.S. Attorney


ROBERT G. HUGHES

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JUL 17 1985

THE CHICAGO & NORTHWESTERN)
TRANSPORTATION COMPANY, a)
Delaware corporation,)
)
Plaintiff,)
)
vs.)
)
TRACKWORK SERVICES, INC.,)
a Kansas corporation,)
)
Defendant.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CASE NO. 85-C-103-E

JOURNAL ENTRY OF JUDGMENT

Now on this 17 day of July, 1985, this cause came on for hearing and on consideration of the Stipulation for Entry of Judgment filed by the parties herein. Pursuant to said Stipulation, the Court finds that:

(1) Plaintiff and defendant are foreign corporations, doing business within the State of Oklahoma;

(2) The Court has jurisdiction of the subject matter of this action by virtue of Title 28, U.S.C. §1337; and

(3) Service of process has been completed upon said defendant pursuant to the Federal Rules of Civil Procedure.

The Court further finds that the defendant, individually, and the parties, by and between their respective counsel of record, have stipulated and agreed that the facts in plaintiff's Complaint are admitted to be true. It further appears that the parties have further stipulated and agreed to the amount to be entered as a judgment in said cause in favor of the plaintiff and against the defendant.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by this Court

that judgment be entered in this action in favor of the plaintiff, the Chicago & Northwestern Transportation Company, a Delaware corporation, and against the defendant, Trackwork Services, Inc., a Kansas corporation, in the amount of Thirty-nine Thousand Six Hundred Dollars (\$39,600.00), plus interest at the rate of six per cent, compounded annually from the date of delivery, in the amount of Three Thousand Nine Hundred Eighty-three and 60/100 Dollars (\$3,983.60), together with court costs in the amount of Sixty Dollars (\$60.00); and interest at the statutory rate per annum from and after judgment, for all of which let execution issue.

S/ JAMES O. FLISON

United States District Judge

APPROVED AS TO FORM:



H. D. Binns, Jr.
Marc R. Pitts
Rainey, Ross, Rice & Binns
735 First National Center West
Oklahoma City, Oklahoma 73102
(405) 235-1356

Attorneys for Plaintiff



M. D. Bedingfield
Chappel, Wilkinson, Riggs, Abney
& Henson
Frisco Building
502 West 6th Street
Tulsa, Oklahoma 74119
Attorneys for Defendant



E. E. Bode
Trackwork Services, Inc.
Defendant

- Entered

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

AUTO-TROL TECHNOLOGY CORPORATION,
 Plaintiff,
 vs.
 DESIGN GRAPHICS, INC.,
 WENDELL H. MELROSE, WILLIE
 A. NORRIS, AND DANIEL DURBIN,
 Defendants,
 and
 PHILLIPS PETROLEUM COMPANY,
 Additional Defendant.

No. 84-C-768-E

FILED
 JUL 17 1985
 JACK C. SILVER, Clerk
 U. S. DISTRICT COURT

ORDER

THIS MATTER is before the Court on the motion of the Plaintiff Auto-Trol Technology Corporation to dismiss the counterclaims of the Defendants, and the motion of additional Defendant Phillips Petroleum Company to dismiss the cross claims of the Defendants.

This action was filed by the Plaintiff Auto-Trol Technology Corporation on September 12, 1984 against Defendants Design Graphics, Inc., William A. Norris, Wendell H. Melrose and Daniel Durben, for misappropriation and use of trade secrets and confidential business information. At the time of the filing of the complaint, the Plaintiff requested, and the Court granted a temporary restraining order enjoining the Defendants from using

or disclosing confidential business information, and requiring the Defendants to return to the Plaintiff any confidential and proprietary information in their possession. The temporary restraining order was extended by the Court until the 12th of October, 1984. At that time the Court granted a preliminary injunction pursuant to the stipulation of the parties.

Each Defendant answered and filed separate counterclaims against the Plaintiff and third party complaints against Phillips Petroleum Company alleging that the Plaintiff and Phillips abused the civil and criminal process for improper motives, tortiously interfered with respective contracts of employment of the individual defendants, and violated the Oklahoma anti-trust laws to the injury of the corporate defendant Design Graphics.

Plaintiff argues that counts one and two of all counterclaims, for "abuse of process" should be dismissed, in that Defendants failed to allege the essential elements of either the tort of malicious prosecution or abuse of process. Plaintiff argues that the extreme circumstances that must exist for an abuse of process claim are not present here, and that the only allegations of abuse are the conclusions that the search warrant served by the Bartlesville Police Department constituted a "private search under the guise and cover of a search warrant". The Supreme Court of Oklahoma in Neil v. Pennsylvania Life Insurance Co., 474 P.2d 961, 965 (Okla. 1970) describes the tort of abuse of legal process as follows:

Abuse of legal process exists in the malicious misuse or misapplication of that process to

accomplish some purpose not warranted or commanded by the writ. In brief, it is the malicious perversion of a regularly issued civil or criminal process, for a purpose and to obtain a result not lawfully warranted or properly attainable thereby, and for which perversion an action will lie to recover the pecuniary loss sustained.

Id. at page 965 [citing 1 Am.Jur.2d Abuse of Process § 4]. The Court continues "[M]alicious abuse of process is the employment of a process in a manner not contemplated by law, or to obtain an object which such a process is not intended by law to affect." Id, at page 965.

In their counterclaims, Defendants allege that all of the hardware and software used by Defendants in their computer-aided Design Graphics business was outdated and used equipment sold on the open market by Auto-Trol through equipment brokers. Defendants allege that all of this equipment was no longer marketed by Auto-Trol, and that Auto-Trol made no attempt to "decertify" the software or to prevent any of its customers, or any other persons, from trading the hardware and the software on the open market. Defendants allege that their supervisors at Phillips Petroleum Company and Auto-Trol were aware of substantially all their activities and had made no objections in the past. Defendants allege that the Plaintiff and Phillips began their own investigation into the Defendant's activities in early 1984, and subsequently elicited the assistance of the Bartlesville Police Department. In July of 1984, Detective Lowery of the Police Department, accompanied by representatives of Phillips, came to the office of Defendant Design Graphics and requested a tape that had been used to create algorithms for a

contract job done for Phillips by Design Graphics. This tape was not available at the time, but on the 25th of July, Defendants called Detective Lowry back and gave him the tape and a data disk, with the assurance of Detective Lowry that the information would not be made available to Phillips or to Auto-Trol, but would be examined only by a third party. Contrary to these representations, all this information was promptly furnished to Auto-Trol and Phillips. Defendants allege that search warrants were obtained through the use of false and misleading affidvits with regard to the operations and materials in the possession of Design Graphics. On that same day, a search of the office was conducted by Detective Lowry, who was accompanied by an individual from Phillips Petroleum, and an individual from Auto-Trol. It is alleged that during the search an independent search and gathering of information was done by the employees of Phillips and Auto-Trol, in which property belonging to both Design-Graphics and its customers was seized and confiscated. After the seizure of this material, it was allegedly turned over to Auto-Trol and Phillips for their own use.

It is essentially alleged that Plaintiff and Phillips made use of the criminal process, and subsequently the civil process, to investigate the business activities of the Defendants, to gather information for their own personal use, and to eventually destroy the business of Defendants. Such allegations properly plead a cause of action in tort for abuse of the legal process, and this Court declines to dismiss counts one and two of the counterclaims.

In Count three of the counterclaims of the individual Defendants Melrose, Norris and Durbin, the allegation is made that Plaintiff and Phillips tortiously interfered with their contracts of employment. The Plaintiff argues that the essential elements of tortious interference are a malicious interference with a contract between two parties in which one party is induced to break the contract to the injury of another, citing Bliss v. Holmes, 9 P.2d 718 (Okla. 1932). Plaintiff argues that since Defendants are employees at will, there is no contract with which Plaintiff could have interfered. The Defendants alleged a combination, plan and conspiracy to destroy the corporate business and to prevent the individuals from being in a position to reenter the field of computer aided drafting in competition with the Plaintiff. The Defendants also allege that Plaintiff and Phillips tortiously interfered with their contracts of employment as part of the conspiracy to destroy their business.

In Hall v. Farmers Insurance Exchange, 56 O.B.J. 1252 (May 21, 1985) the Oklahoma Supreme Court held that the implied covenant of good faith extends to the covenant not to wrongfully resort to the termination at will clause in an at will employment contract. The Court relied upon the long-standing rule that a principal "may not unfairly deprive his agent of the fruits of that agent's own labor by a wrongful, unwarranted resort to a clause in the agency contract which provides for termination at will." *Id* at page 1245. An employer who, in bad faith and

without good cause, resorts to the termination at will clause for wrongful purposes, breaches the employment contract. A third party who, for improper purposes, induces the employer to breach this contract tortiously interferes with the employment contract. See Bliss v. Holmes, 9 P.Ed 718 (Okla. 1932).

This Court notes that the counterclaim of Defendant Melrose for tortious interference as against Plaintiff Auto-Trol must fail, because Auto-Trol, as Defendant's employer, cannot tortiously interfere with its own contract with Defendant. The allegations of Count 3 as to the Plaintiff Auto-Trol in the counterclaim of Defendant Melrose, therefore must be dismissed.

Third party defendant Phillips Petroleum Company has filed a motion to dismiss the crossclaims of the Defendants against it, making substantially the same arguments as made by the Plaintiff Auto-Trol in its motion to dismiss. For the reasons set forth above, third party Defendant Phillips' motion to dismiss the crossclaims of Defendants Norris, Durbin and Melrose is denied, with the exception of the tortious interference with contract claims of Defendants Norris and Durbin. Since these Defendants are employees of Phillips Petroleum Co. and Phillips cannot be held to have tortiously interfered with their employment contracts, these allegations of count three of their crosscomplaints must be dismissed

In count three of the counterclaim and crossclaim of the corporate Defendant Design Graphics, it is alleged that Plaintiff

and Phillips have violated the anti-trust laws of the State of Oklahoma. Plaintiffs allege that the pleading of an anti-trust violation is insufficient under Rule 8(a)(2) of the Federal Rules of Civil Procedure. Plaintiff argues that the pleading of a legal conclusion in an anti-trust conspiracy case is insufficient. Defendants respond by arguing that a conspiracy to eliminate a competitor is a per se violation of § 1 of the Sherman Act, upon which Title 79 O.S. § 1 is based. This statute provides:

Every act, agreement, contract, or combination in the form of trust, or otherwise, or conspiracy in restraint of trade or commerce within this state is hereby declared to be against public policy and illegal.

Plaintiff's attack focuses on the following excerpt from the counterclaim of Design Graphics:

The plan, combination and conspiracy by Auto-Trol and Phillips to destroy the business and existence of Design Graphics and to prevent its continuance or reentry into the field of computer aided drafting was in violation of the anti-trust law of the State of Oklahoma and resulted in damages to Design Graphics in the sum of \$1 million dollars.

In the recent case of Midwest Underground Storage, Inc. v. Porter, 717 F.2d 493 (10th Cir. 1983) it was held that a per se test for an alleged conspiracy to eliminate a competitor by means of unfair competition would not be applied in this Circuit, and that a "rule of reason" analysis must be applied in such cases. The application of the rule of reason analysis requires that an anti-trust complaint allege an injury to the public in the form of a significant anti-competitive effect in order to state a claim. The Defendant Design Graphics asserts a conspiracy

between Plaintiff and Phillips over time to destroy it as a competitor, but does not discuss the injury to the public as a result of this alleged activity. Count 3, therefore, fails to allege a cause of action under the Oklahoma anti-trust laws, and must be dismissed.

IT IS THEREFORE ORDERED AND ADJUDGED that the motion of Plaintiff Auto-Trol Technology Corporation to dismiss counts one and two of the counterclaims of all Defendants be and the same is hereby denied.

IT IS FURTHER ORDERED that the motion of Plaintiff Auto-Trol to dismiss count three of the counterclaim of Defendant Norris be and the same is hereby denied.

IT IS FURTHER ORDERED that the motion of Plaintiff Auto-Trol to dismiss count three of the counterclaim of the Defendant Durbin be and the same is hereby denied.

IT IS FURTHER ORDERED that the motion of Plaintiff Auto-Trol to dismiss count three of the counterclaim of the Defendant Melrose be and the same is hereby granted.

IT IS FURTHER ORDERED that the motion of Plaintiff to dismiss count three of the counterclaim of the Defendant Design Graphics be and the same is hereby granted.

IT IS FURTHER ORDERED that the motion of third party Defendant Phillips Petroleum Company to dismiss counts one and two of the cross-claims of all Defendants be and the same is hereby denied.

IT IS FURTHER ORDERED that the motion of the third party Defendant Phillips Petroleum Company to dismiss count three of the cross-claim of Defendant Norris be and the same is hereby granted.

IT IS FURTHER ORDERED that the motion of the third party Defendant Phillips Petroleum Company to dismiss count three of the cross-claim of Defendant Durbin be and the same is hereby granted.

IT IS FURTHER ORDERED that the motion of third party Defendant Phillips Petroleum Company to dismiss count three of the cross-claim of Defendant Melrose be and the same is hereby denied.

IT IS FURTHER ORDERED that the motion of third party Defendant Phillips Petroleum Company to dismiss count three of the cross-claim of Defendant Design Graphics be and the same is hereby granted.

ORDERED this 16th day of July, 1985.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

JUL 16 1985

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

RONALD HALE,

Petitioner,

vs.

No. 85-C-178-E

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Respondent.

ORDER OF DISMISSAL

The Court has been advised by counsel that this action is moot by virtue of the administrative subpoena having been withdrawn. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this judgment by United States mail upon the attorneys for the parties appearing in this action.

DATED this 16th day of July, 1985.



JAMES C. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 16 1985

KEITH A. NOBLE,
Plaintiff,

vs.

SKELLY DRILLING COMPANY AND
VERN O. COLLUM,
Defendants.



Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 85-C-559-E

JUDGMENT

Defendants Skelly Drilling Company and Vern O. Collum, having been regularly served with process and having failed to appear and answer the Plaintiff's complaint filed herein, and the default of said Defendants having been duly entered, and it appearing that said Defendants are not infants or incompetent persons, and an Affidavit of non-military service as to Defendant Vern O. Collum having been filed herein, and it appearing by the Affidavit of the Plaintiff that the Plaintiff is entitled to judgment herein,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover from Defendant Skelly Drilling Company the sum of \$60,201.41, with interest thereon at the rate of 12% per annum through date of judgment and interest at the rate of 7.60% until paid, together with attorneys' fees to be determined upon proper application and costs, and that Plaintiff recover from Defendant Vern O. Collum the sum of \$100,000.00.

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

Entered

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL 16 1985

DARRELL A. DUNAWAY, # 92274,
Plaintiff,

Jack C. Silver, Clerk
U. S. DISTRICT COURT

vs.

No. 84-C-583-E

OKLAHOMA DEPARTMENT OF
CORRECTIONS, et al.,
Defendants.

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that the Plaintiff Darrell A. Dunaway take nothing from the Defendants Oklahoma Department of Corrections, David C. Miller, Norma J. Burden and Barbara Wright, and that the action be dismissed on the merits.

DATED at Tulsa, Oklahoma this 16th day of July, 1985.

James O. Ellison

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

112

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DON SJOBERG,)
)
Plaintiff,)
)
v.)
)
PRUE SCHOOL DISTRICT NO.)
I-050, Prue, Oklahoma;)
DENNIS GARROUTTEE, Individually)
and in his official capacity as)
President of the Board of)
Education of Prue School District;)
RICK GRIFFIN, individually and)
in his official capacity as)
member of the Board of Education)
of Prue School District; and)
RON FRAZIER, individually and in)
his official capacity as member)
of the Board of Education of)
Prue School District,)
)
Defendants.)

Case No. 84-C-436-E

FILED

JUL 16 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

NOW ON this 16th day of July, 1985, the Court having heard the parties Stipulation of Dismissal, and being well advised in the premises, does hereby order the above-captioned action to be dismissed with prejudice and that each party shall bear their own costs in this action.

S/ JAMES O. ELLISON

Judge of the Federal District Court

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL 19 1985

JOHN G. RIVET, Clerk
U. S. DISTRICT COURT

J. HOYL LOCKETT,)
)
 Plaintiff)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Defendant)

CIVIL NO. 82-C-1127-E

JUDGMENT

This case having been tried before a jury and the Court having rendered a directive verdict in favor of Defendant United States of America, it is hereby

ORDERED, ADJUDGED, and DECREED that plaintiff's complaint be dismissed with prejudice and Defendant United States of America be awarded judgment on its counterclaim in the amount of \$22,506 plus interest and penalties as allowed by law, however, the plaintiff shall be entitled to credits on this amount for all joint income tax refunds which have been applied towards satisfying the 100% penalty liability.

ORDERED, ADJUDGED, and DECREED that Defendant United States of America recover its costs in this action.

Done this 16th day of July, 1985.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

PRR-T

PAUL R. TOM
Attorney at Law
Holliman, Langholz,
Runnels & Dorwart
Suite 700, Holarud Building
10 East Third Street
Tulsa, Oklahoma 74103



H. VICTOR CONRAD
Attorney, Tax Division
Department of Justice
Room 5B31, 1100 Commerce
Dallas, Texas 75242-0599

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 16 1985

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 LYNDA WEBB,)
)
 Defendant.)

MARK G. OLIVER, CLERK
U.S. DISTRICT COURT

CIVIL ACTION NO. 84-C-855-C

DEFICIENCY JUDGMENT

NOW on this 15 day of July, 1985, there came on for hearing the Motion of the Plaintiff United States of America for leave to enter a Deficiency Judgment herein, said Motion being filed on July 11, 1985, and a copy of said Motion being mailed by Certified Mail to Ernest A. Bedford, P.O. Box 2353, Tulsa, Oklahoma 74101. The Plaintiff, United States of America, on behalf of the Administrator of Veterans' Affairs, appeared by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant Lynda Webb appeared neither in person nor by counsel.

The Court upon consideration of said Motion finds that the amount of the Judgment rendered herein on January 29, 1985, in favor of the Plaintiff United States of America, and against the Defendant Lynda Webb, with interest and costs to date of sale is \$33,368.84.

The Court further finds that the market value of the real property at the time of the sale is \$19,500.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered January 29, 1985, for the sum of \$16,876.00.

The Court further finds that Plaintiff United States of America is accordingly entitled to a deficiency judgment against the Defendant, Lynda Webb, as follows:

Principal as of April 22, 1985	\$27,631.04
Interest	4,891.94
Late charges	158.60
Appraisal	100.00
Management broker fees	375.00
Costs	<u>212.26</u>
TOTAL	\$33,368.84
Less the appraised value	\$19,500.00
DEFICIENCY	\$13,868.84

plus interest on said deficiency judgment at the legal rate of 7.60 percent per annum from date of judgment until paid; said deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff United States of America have and recover from the Defendant Lynda Webb, a deficiency judgment in the amount of \$13,868.84, plus interest at the legal rate of 7.60 percent per annum on said deficiency judgment from date of judgment until paid.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 16 1985

JACK O. SIMON, CLERK
U.S. DISTRICT COURT

IVA LORENE LOWE and
CHARLES DWAYNE LOWE,

Plaintiffs,

vs.

No. 84-C-13-C

FIBREBOARD CORPORATION;
JOHNS-MANVILLE SALES CORPORATION;
OWENS-CORNING FIBERGLASS CORPORA-
TION; EAGLE-PICHER INDUSTRIES,
INC.; PITTSBURGH-CORNING CORPORA-
TION; CELOTEX CORPORATION;
GAF CORPORATION; ARMSTRONG
CORK COMPANY; STANDARD ASBESTOS
MANUFACTURING & INSULATING COMPANY;
NICOLET INDUSTRIES, INC.;
KEENE CORPORATION; COMBUSTION
ENGINEERING, INC.; FORTY-EIGHT
INSULATION, INC.; RYDER INDUSTRIES,
INC.; OWENS-ILLINOIS, INC.;
RAYMARK INDUSTRIES, INC.;
FLINTKOTE COMPANY; ROCK WOOL
MANUFACTURING COMPANY;
H. B. FULLER COMPANY;
UNARCO INDUSTRIES, INC.;
H. K. PORTER COMPANY, and
NATIONAL GYPSUM CO.,

Defendants.

ORDER OF DISMISSAL

Now on this 15 day of July, 1985, the Court being advised that a compromise settlement having been reached between the plaintiffs and the named defendants, and those parties stipulating to a dismissal with prejudice, the Court orders that the captioned case be dismissed with prejudice as to OWENS-ILLINOIS, INC., OWENS-CORNING FIBERGLAS CORPORATION, EAGLE-PICHER INDUSTRIES, INC., PITTSBURGH-CORNING CORPORATION, CELOTEX CORPORATION, GAF CORPORATION, STANDARD INSULATIONS, INC., NICOLET INDUSTRIES, INC., COMBUSTION ENGINEERING, INC., NATIONAL GYPSUM COMPANY, RAYMARK INDUSTRIES, INC. and KEENE CORPORATION.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 16 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JOSEPH D. TURNER,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-453-E

AGREED JUDGMENT

This matter comes on for consideration this 16 day
of July, 1984, the Plaintiff appearing by Layn R.
Phillips, United States Attorney for the Northern District of
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States
Attorney, and the Defendant, Joseph D. Turner, appearing pro se.

The Court, being fully advised and having examined the
file herein, finds that the Defendant, Joseph D. Turner, has not
been served with Summons and Complaint, and has not filed his
Answer but in lieu thereof has agreed that he is indebted to the
Plaintiff in the amount alleged in the Complaint and that judg-
ment may accordingly be entered against him in the amount of
\$960.28, plus interest at the rate of 12.25 percent per annum and
administrative costs of \$.68 per month from March 9, 1984, until
judgment, plus interest thereafter at the legal rate from the
date of judgment until paid, plus the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
Plaintiff have and recover judgment against the Defendant, Joseph

D. Turner, in the amount of \$960.28, plus interest at the rate of 12.25 percent per annum and administrative costs of \$.68 per month from March 9, 1984, until judgment, plus interest thereafter at the current legal rate of 7.60 percent from the date of judgment until paid, plus the costs of this action.

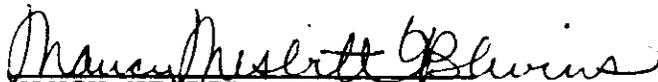
BY JAMES G. ELISON

UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney


NANCY NESBITT BLEVINS
Assistant U.S. Attorney


JOSEPH D. TURNER

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

GEORGE THOMAS PITNER and)
NELDA GENE PITNER,)
)
Plaintiffs,)

vs.)

No. 84-C-284-E

FIBREBOARD CORPORATION;)
JOHNS-MANVILLE SALES CORPORATION;)
OWENS-CORNING FIBERGLASS CORPORA-)
TION; EAGLE-PICHER INDUSTRIES,)
INC.; PITTSBURGH-CORNING CORPORA-)
TION; CELOTEX CORPORATION;)
GAF CORPORATION; ARMSTRONG)
CORK COMPANY; STANDARD ASBESTOS)
MANUFACTURING & INSULATING COMPANY;)
NICOLET INDUSTRIES, INC.;)
KEENE CORPORATION; COMBUSTION)
ENGINEERING, INC.; FORTY-EIGHT)
INSULATION, INC.; RYDER INDUSTRIES,)
INC.; OWENS-ILLINOIS, INC.;)
RAYMARK INDUSTRIES, INC.;)
FLINTKOTE COMPANY; ROCK WOOL)
MANUFACTURING COMPANY;)
H. B. FULLER COMPANY;)
UNARCO INDUSTRIES, INC.;)
H. K. PORTER COMPANY, and)
NATIONAL GYPSUM CO.,)
)
Defendants.)

FILED

JUL 16 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Now on this 16th day of July, 1985, the Court being advised that a compromise settlement having been reached between the plaintiffs and the named defendants, and those parties stipulating to a dismissal with prejudice, the Court orders that the captioned case be dismissed with prejudice as to OWENS-ILLINOIS, INC., OWENS-CORNING FIBERGLAS CORPORATION, EAGLE-PICHER INDUSTRIES, INC., FIBREBOARD CORPORATION, CELOTEX CORPORATION, GAF CORPORATION, PITTSBURGH-CORNING CORPORATION and KEENE CORPORATION.

ST. JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FRED ESCOTT and JUANITA ESCOTT,)
Plaintiffs,)
vs)
ENERGY SYSTEMS UNITED CORPORATION,)
RICHARD J. DENT, FREDERICK MENSING,)
LYNWOOD K. DANIELS, EDWARD BELFER,)
KEVIN MICHAEL SHORT, PATRICK STEWART,)
C. L. HARPER, HAROLD SANSOM, WILLIAM)
E. SIMPSON, WILLIAM T. DAVIE, MORRIS)
L. DUNLAP, PETRO LAND, INC.,)
NETHERVAN INDUSTRIES, INC., and)
CAVALIER INTERESTS,)
Defendants.)

CIVIL NO. 85-C-544-E

ACTION FOR DECLARATORY JUDGMENT,
RECISSION AND DAMAGES

FILED

JUL 15 1985

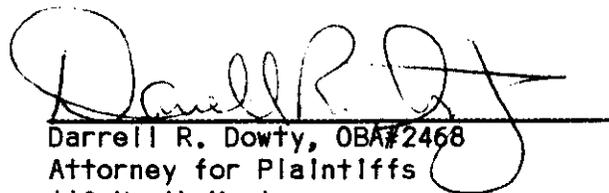
Jack U. Smith, Clerk
U. S. DISTRICT COURT

**NOTICE
DISMISSAL WITHOUT PREJUDICE
BY PLAINTIFF**

To: William E. Simpson
§ Robert Haney, Attorney
25 West Central
Miami, Oklahoma 74355

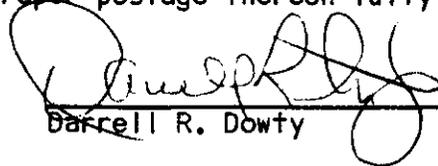
Notice is hereby given that FRED ESCOTT and JUANITA ESCOTT, the above-named Plaintiffs, elect to dismiss, without prejudice, the above-entitled action pursuant to Rule 41 (a) (1) of the Federal Rules of Civil Procedure and hereby file this Notice of Dismissal Without Prejudice before service by the adverse party of either an Answer or a Motion for Summary Judgment.

Dated this 11th day of July, 1985.


Darrell R. Dowty, OBA#2468
Attorney for Plaintiffs
119 North Maple
Nowata, Oklahoma 74048
Phone: (918) 273-1122

CERTIFICATE OF SERVICE

I, Darrell R. Dowty, do hereby certify that on the 11th day of July, 1985, I mailed a true and correct copy of the above and foregoing instrument to James R. Gotwals, 507 S. Main, Suite 201, Tulsa, Oklahoma 74103 and to Robert Haney, 25 West Central, Miami, Oklahoma 74355, Attorneys for Defendant, William E. Simpson, with proper postage thereon fully prepaid.



Darrell R. Dowty

Entered

FILED
JUL 15 1985
JACK O. GUNER, CLERK
DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CROWN CENTRAL PETROLEUM)
CORPORATION, a corporation,)
)
Plaintiff,)
)
vs.)
)
JAMES FRANKLIN WILLIAMS,)
)
Defendant.)

No. 84-C-982-C

O R D E R

Now before the Court for its consideration is the Motion of plaintiff Crown Central Petroleum Corporation for Summary Judgment against defendant, filed on June 3, 1985. The Court has no record of a response to this motion from defendant James Franklin Williams. Rule 14(a) of the Local Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) Briefs. Each motion, application and objection filed shall set out the specific point or points upon which the motion is brought and shall be accompanied by a concise brief. Memoranda in opposition to such motion and objection shall be filed within ten (10) days after the filing of the motion or objection, and any reply memoranda shall be filed within ten (10) days thereafter. Failure to comply with this paragraph will constitute waiver of objection by the party not complying, and such failure to comply will constitute a confession of the matters raised by such pleadings.

Therefore, in that defendant has failed to comply with Local Rule 14(a) and no responsive pleading has been filed to date

12

herein, the Court concludes that defendant has waived any objection to said motion and has confessed the matters contained therein.

Accordingly, it is the Order of the Court that plaintiff's Motion for Summary Judgment should be and hereby is sustained.

IT IS SO ORDERED this 10 day of July, 1985.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 15 1985

JAMES C. SUMNER, CLERK
U.S. DISTRICT COURT

T.H.J. CORPORATION, a Nevada
corporation; PHOENIX INTERNATIONAL)
DEVELOPMENT CORPORATION, a)
Canadian corporation; MEGALINE)
RESOURCES, LTD., a Canadian)
Corporation; CENTURY EXPLORATION,)
INC., a Canadian Corporation;)
CAPOZZI ENTERPRISES, LTD., a)
Canadian Corporation; LEONARD)
UDELL, an individual; and)
CANADIAN ENERGY, INC., an)
Oklahoma Corporation,)

Plaintiffs,)

vs.)

Case No. 85-C-532-B

CLARENCE R. WRIGHT, an)
individual; C.R. WRIGHT)
ASSOCIATES MANAGEMENT, INC.,)
an Oklahoma corporation;)
YUKON NATIONAL BANK, a national)
bank; DONAL W. MOUNT, an individual)
and ALAN BERRY WHITE, an)
individual,)

Defendants.)

STIPULATION OF DISMISSAL

COME NOW the parties herein, plaintiffs and defendants,
by and through their respective attorneys, and hereby stipulate
to the dismissal of only defendant, Alan Berry White, an
individual, in the above captioned proceeding, with prejudice.

DATED at Tulsa, Oklahoma, this 15th day of July,
1985.


Pat Malloy
1924 South Utica, #810
Tulsa, Oklahoma 74104
Attorney for Plaintiffs


Jack R. Givens
201 West Fifth Street, #400
Tulsa, Oklahoma 74103
Attorney for Defendants

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE

TULSA, OKLAHOMA 74103

(918) 581-7796
(FTS) 736-7796

JACK C. SILVER
CLERK

July 12, 1985

TO: COUNSEL/PARTIES OF RECORD

RE: Case #85-C-557-C (Pannell v. Meachum)

This is to advise you that Chief Judge H. Dale Cook entered the following Minute Order this date in the above case:

"ORDERED that this case is transferred to the Eastern District of Oklahoma."

Very truly yours,

JACK C. SILVER, CLERK

By:

Rosanne J. Miller
Deputy Clerk

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL 1 1985

STENOGRAPH CORPORATION,

Plaintiff,

v.

DAVID G. HARJO,

Defendant.

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

No. 85-C-433-B

NOTICE OF DISMISSAL OF ACTION

To: David G. Harjo
Defendant
Route 1
Wewoka, Oklahoma 74884

Please take notice that pursuant to Rule 41 of the
Federal Rules of Civil Procedure the above-entitled action is
hereby dismissed without prejudice.



Dana L. Rasure
Kevin B. Fisher

BAKER, HOSTER, McSPADDEN,
CLARK & RASURE
13th Floor, One Boston Plaza
Tulsa, Oklahoma 74103
(918) 592-5555

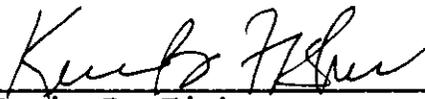
Thomas J. Smedinghoff
Malcolm H. Brooks

McBRIDE, BAKER & COLES
Three First National Plaza
38th Floor
Chicago, Illinois 60602

Attorneys for Plaintiff
Stenograph Corporation

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of July, 1985, a true and correct copy of the above and foregoing Notice of Dismissal of Action was mailed by first class mail, postage prepaid, to David G. Harjo, Route 1, Wewoka, Oklahoma 74884.



Kevin B. Fisher

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 11 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

SANTA FE INTERNATIONAL)
CORPORATION,)
)
Plaintiff,)
)
vs.)
)
FIRST NATIONAL BANK AND)
TRUST COMPANY IN CLINTON,)
Guardian of the Estate of)
T. M. Ray, an Incompetent)
Person, GUS RAY, ROBERTA RAY)
and JOHN W. DONLEY,)
)
Defendants.)

No. 85-C-588-E

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, Santa Fe International Corporation,
and dismisses the captioned proceeding without prejudice, pursuant
to Rule 41(a) (1) of the Federal Rules of Civil Procedure.

Respectfully submitted,

HALL, ESTILL, HARDWICK, GABLE,
COLLINGSWORTH & NELSON, INC.

By Thomas M. Ladner

Thomas M. Ladner
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-2700

ATTORNEYS FOR PLAINTIFF, SANTA
FE INTERNATIONAL CORPORATION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 10 1985

J. J. Silver, Clerk
U.S. DISTRICT COURT

ITT INDUSTRIAL CREDIT COMPANY,)
a Nevada corporation,)

Plaintiff,)

-vs-

Case No. 83-C-⁹⁶⁹696-E

FOURTH NATIONAL BANK OF)
TULSA, OKLAHOMA, a)
National Banking Association,)

Defendant.)

JUDGMENT

This action came on for hearing on the parties' cross-motions for summary judgment. The Court, by its Order dated May 28, 1985, finds that the Plaintiff's Motion for Summary Judgment be and is hereby granted. Defendant's Motion for Summary Judgment is denied. Plaintiff is awarded the proceeds of the sale of the collateral listed on the 1975 Financing Statement, less reasonable costs of sale. Plaintiff is also awarded pre-judgment interest and post-judgment interest at the statutory rate and is awarded reasonable attorneys' fees and the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff, ITT Industrial Credit Company, shall have judgment against the Defendant, Fourth National Bank of Tulsa, Oklahoma for the principal sum of \$67,620.00, plus interest in the sum of \$22,329.50 prior to judgment, plus post-judgment interest at the rate of ~~15%~~ ^{7.60} per annum until paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff shall have and recover from the Defendant and costs of \$877.65;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff is awarded its reasonable attorneys' fees in an amount to be determined upon application to be submitted within ten (10) days of the date of this Judgment.

Dated at Tulsa, Oklahoma this 10 day of July, 1985.

H. DALE COOK

for James O. Ellison
United States District Court Judge

APPROVED AS TO FORM:

HOLLIMAN, LANGHOLZ, RUNNELS & DORWART

By *Ronald E. Goins*
Ronald E. Goins
Attorney for Plaintiff

ENGLISH, JONES & FAULKNER

By *Carol Wood*
Thomas English
Carol Wood
Attorneys for Defendant

624-879-04

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 10 1995

JACK B. SILVER, CLERK
U.S. DISTRICT COURT

WESLEY R. MCKINNEY,)
)
 Petitioner,)
)
 vs.)
)
 HARRY CONNOLLY,)
 United States Marshal,)
)
 Respondent.)

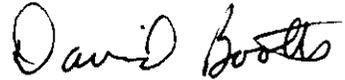
Case No. 85-C-611-B

PETITIONER'S STIPULATION
OF VOLUNTARY DISMISSAL

COMES NOW the Petitioner, Wesley R. McKinney, by his undersigned counsel, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, and dismisses, without prejudice, his petition for a writ of habeas corpus filed in this cause. As grounds therefore, the defendant states that the issues raised in the petition are moot since he is not being held in custody pursuant to an order of the Bankruptcy Court.

An order of this court granting the dismissal is not necessary since no answer or motion for summary judgment has been filed by respondent.

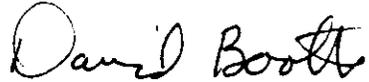
Respectfully submitted,



David Booth, Counsel for
Petitioner
Federal Public Defender
222 South Houston, Suite C
Tulsa, Oklahoma 74127
918-581-7656

Certificate of Service

I hereby certify that on this 10th day of July, 1985, I hand-delivered a true and correct copy of the above and foregoing stipulation of dismissal to the offices of the United States Attorney for the Northern District of Oklahoma and to the office of respondent.



David Booth

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MAYFIELD SUPPLY, INC.

Plaintiff(s),

vs.

BORG-WARNER CENTRAL ENVIRONMENTAL
SYSTEMS, INC., d/b/a FRASER-JOHNSTON
HEATING AND AIR CONDITIONING,

Defendant(s).

No. 84-C-773-C

FILED

JUL 10 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JUDGMENT DISMISSING ACTION
BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore, it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this Judgment by United States mail upon the attorneys for the parties appearing in this action.

Dated this 10th day of July, 19 85.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 10 1985

STANDARD CHEMICAL MANUFACTURING)
COMPANY,)

Plaintiff,)

vs.)

CAMPBELL 66 EXPRESS, INC.,)

Defendant.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 84-C-751-C

ORDER OF DISMISSAL

This matter came on for consideration on this 10 day of ~~June~~ ^{July}, 1985 upon the Joint Application For Dismissal With Prejudice filed herein. The Court being duly advised in the premises, finds that said Application For Dismissal is in the best interests of justice and should be approved, and the above styled and numbered cause of action dismissed with prejudice to a re-filing.

It is, therefore, ORDERED, ADJUDGED AND DECREED by the Court that the Joint Application For Dismissal With Prejudice by the parties be and the same is hereby approved and the above styled and numbered cause of action and Complaint is dismissed with prejudice to a re-filing.

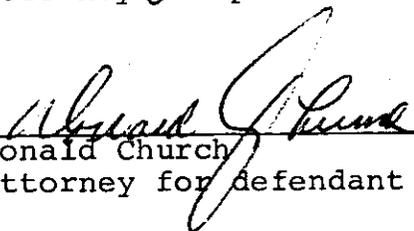
s/H. DALE COOK

H. DALE COOK, CHIEF JUDGE
United States District Court

O.K.:



Nancy Jane Siegel
Attorney for plaintiff



Donald Church
Attorney for defendant

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE NORTHERN
DISTRICT OF OKLAHOMA

ALLSTATE INSURANCE COMPANY)
an Illinois Insurance)
Corporation,)
)
Plaintiff,)
)
vs.) Case No. 84-C-387 C ✓
)
JOHN M. HOWELL, and JANET)
HOWELL, HAROLD DOWNING JR.,)
KATHLEEN A. WHITE, MARY SUSAN)
KERN,)
)
Defendants.)

FILED
JUL 10 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

FINAL ORDER

Now on this 10 day of July ~~June~~ 1985, this cause comes on for hearing pursuant to the joint application of the all parties for a Final Order in the above styled case.

The Court upon reviewing the pleadings, finds that the parties hereto have stipulated and agreed that the Plaintiff, Allstate Insurance Company has paid into court all of the funds required by the policies of insurance concerned herein, the parties have agree to the disbursement of said funds and said funds have been disbursed by the Clerk of the Court pursuant to that agreement.

IT IS THEREFORE ORDERED by this Court and its finding herein that the Plaintiff, Allstate Insurance Company, has paid into Court all of the funds required by the policies of insurance concerned herein, and the Court approves the agreement of the parties to the disbursement of said funds.

H. Dale Cook
H. DALE COOK
CHIEF JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 10 1985

DALE COOK, CLERK
U.S. DISTRICT COURT

LANDSING DIVERSIFIED)
PROPERTIES-II, a California)
Limited Partnership,)
)
Plaintiff,)
)
vs.)
)
JONES, FRANCEY, DORIS, SUTTON,)
AND EDWARDS, INC., an Oklahoma)
corporation, a/k/a/ JONES, SUTTON,)
AND EDWARDS, INC., an Oklahoma)
corporation,)
)
Defendant.)

No. 85-C-231-B

ORDER OF DISMISSAL

NOW on this 10th day of July, 1985, the above styled and numbered cause comes on for consideration by the Court on the Joint Stipulation for Dismissal filed herein by the plaintiff, Landsing Diversified Properties-II, and the defendant, Jones, Francey, Doris, Sutton and Edwards, Inc. The Court having examined the Joint Stipulation for Dismissal finds that the claims for relief of the plaintiff should be dismissed.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED by the Court that this action and the claims for relief of plaintiff Landsing Diversified Properties-II, are hereby dismissed.

s/H. DALE COOK
s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

for Thomas R. Brett

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Filed 2-10-85

UNITED STATES OF AMERICA,
Plaintiff,
vs.
JAMES L. FLYNN,
Defendant.

)
)
)
)
)
)
)
)
)
)

CIVIL ACTION NO. 85-C-167-C

DEFAULT JUDGMENT

This matter comes on for consideration this 10 day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, James L. Flynn, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, James L. Flynn, acknowledged receipt of Summons and Complaint on February 28, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, James L. Flynn, for the principal sum of \$7,391.90, plus accrued interest of \$37.78 as of December 31, 1983, plus interest on the principal

sum of \$7,391.90 at 4 percent from December 31, 1983, until paid,
plus costs of this action.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Sheri D. Johnson, in the amount of \$220.58, plus interest at the rate of 15.05 percent per annum and administrative costs of \$.61 per month from September 6, 1983, and \$.68 per month from January 1, 1984, until judgment, plus interest thereafter at the current legal rate of 7.60 percent from the date of judgment until paid, plus the costs of this action.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

for Thomas R. Brett

APPROVED:

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney

Nancy Nesbitt Blevins
NANCY NESBITT BLEVINS
Assistant U.S. Attorney

Sheri D. Johnson
SHERI D. JOHNSON

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 PHILLIP A. BEATY, CHERYL BEATY,)
 VERNON MANOR APARTMENTS, UTICA)
 NATIONAL BANK AND TRUST COMPANY,)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma, BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED

JUL 10 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CIVIL ACTION NO. 85-C-515-C

ORDER TO DISMISS ACTION

For good cause shown in the Plaintiff's Motion to Dismiss Action, and pursuant to Rule 41(a)(2), Federal Rules of Civil Procedure, it is ORDERED that this civil action is hereby dismissed without prejudice.

s/H. DALE COOK

UNITED STATES DISTRICT JUDGE

FILED

JUL 10 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ARNOLD KIRKEBO, Executor of the)
 Estate of HAAKON KIRKEBO,)
 deceased,)
)
 Plaintiff,)
)
 vs.)
)
 INVESTORS FINANCIAL, INC., an)
 Oklahoma corporation, and JERRY)
 L. ISAACS,)
)
 Defendants.)

Case No. 84-C-847-B ✓

ORDER VACATING FINAL CONSENT
JUDGMENT AND OF DISMISSAL

UPON the joint application of the Plaintiff, Arnold Kirkebo, Executor of the Estate of Haakon Kirkebo, deceased, and the Defendants, Investors Financial, Inc., an Oklahoma corporation, and Jerry L. Isaacs, by their respective attorneys, to the entry of this Order Vacating Final Consent Judgment and of Dismissal and for good cause shown, it is hereby

ORDERED, ADJUDGED AND DECREED that the Final Consent Judgment entered herein on the 31st day of May, 1985, is vacated and that the captioned case, the Plaintiff's Complaint, the Defendants' respective Answers, and all claims for relief that have been or could ever be based thereon, are dismissed with prejudice.

DATED this 10th day of July, 1985.

Thomas R. Brett

 United States District Judge
 Thomas R. Brett

Entered

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

NATIONAL RAILROAD PASSENGER CORPORATION,)
)
Plaintiff,)
)
-vs-)
)
KOCH INDUSTRIES, INC.,)
a corporation, et al.,)
)
Defendants,)
)
KOCH INDUSTRIES, INC.,)
a corporation,)
)
Third Party Plaintiff,)
)
-vs-)
)
THE ATCHISON-TOPEKA & SANTA FE RAILWAY COMPANY,)
)
Third Party Defendant.)

No. 78-C-3-C

FILED

JUL 10 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

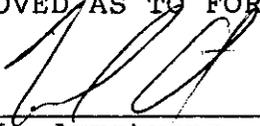
O R D E R

Now on this 10 day of June, 1983, the above styled and numbered cause coming on for hearing before the undersigned Judge of the United States District Court in and for the Northern District of Oklahoma, upon the joint motion for dismissal, and the Court having examined the pleadings and being well and fully advised in the premises, is of the opinion that said cause should be dismissed with prejudice.

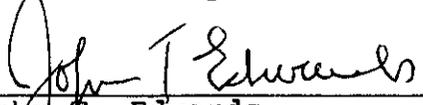
s/H. DALE

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:



 Tom L. Armstrong
 Attorney for Plaintiff and
 Third Party Defendant



 John T. Edwards
 Attorney for Defendant and
 Third Party Plaintiff

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 10 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
MELVIN B. WEAVER, BETTY L.)
WEAVER, FEDERAL LAND BANK)
OD WICHITA, COUNTY)
TREASURER, Osage County,)
Oklahoma, BOARD OF)
COUNTY COMMISSIONERS,)
Osage County, Oklahoma,)
)
Defendants.)

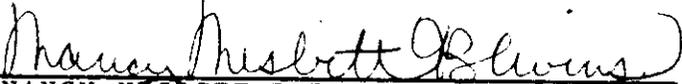
CIVIL ACTION NO. 85-C-489-B

STIPULATION OF DISMISSAL

COME NOW the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendants, Board of County Commissioners, and County Treasurer, Osage County, Oklahoma, by their attorney, Mr. Larry D. Stuart, District Attorney, Osage County, Oklahoma, and hereby stipulate and agree that this action may be dismissed pursuant to Rule 41, Federal Rules of Civil Procedure.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney



NANCY NESBITT BLEVINS
Assistant United States Attorney



LARRY D. STUART
District Attorney
Osage County, Oklahoma

FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JUL 10 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ZEPHYR METAL CRAFTS, INC.,)
 an Oklahoma corporation,)
)
 Plaintiff,)
)
 v.)
)
 FAROTTE CONSTRUCTION CO., INC.,)
 a California corporation,)
)
 Defendant.)

Case No. 85-C-423 E

O R D E R

NOW THEN on this 10 day of July, 1985, there comes before the Court for its consideration Defendant's Motion and Brief for Order Sustaining Defendant's Motion to Dismiss filed on May 15, 1985. Having duly examined the pleadings filed in this case, and being apprised of the premises herein, the Court finds as follows:

1. Defendant filed its Motion to Dismiss and Brief in Support Thereof with the Court on May 15, 1985.

2. Plaintiff was granted an extension of time by the Court in which to respond until June 10, 1985.

3. As of June 28, 1985, the date of Defendant's Motion now before the Court, the Plaintiff had not filed any response to the Defendant's previously-filed Motion to Dismiss.

4. Rule 14 of the Rules of the United States District Court for the Northern District of Oklahoma states that the failure of a party timely to respond in opposition to a motion

previously filed constitutes a waiver of objection by the party not complying, and such failure constitutes a confession of the matters raised.

5. In accordance with Rule 14 of the Rules of the United States District Court for the Northern District of Oklahoma, the Defendant's Motion to Dismiss filed May 15, 1985, is hereby granted and the Plaintiff's cause of action is hereby dismissed.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Defendant's Motion to Dismiss filed May 15, 1985, is granted and the Plaintiff's case is hereby dismissed.



THE HONORABLE JAMES O. ELLISON

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 10 1985

SWANSON BROADCASTING, INC.,)
A Delaware Corporation,)
)
Plaintiff,)
)
vs.)
)
CLEAR CHANNEL COMMUNICATIONS,)
INC., A Texas Corporation,)
)
Defendant.)

Jack C. Siver, Clerk
U. S. DISTRICT COURT

No. 85-C-262-E

ORDER

NOW, on the 14th day of June, 1985, the Defendant's Motion to Dismiss came for hearing before the undersigned Judge, the Plaintiff, appearing by its counsel, Kenneth E. Dornblaser of Gable & Gotwals, and the Defendant appearing by its counsel, James E. Weager of Jones, Givens, Gotcher, Doyle & Bogan, Inc. After reviewing the briefs in this matter and hearing the arguments of counsel, the Court found that the Defendant's Motion to Dismiss should be sustained and that Plaintiff should be allowed twenty days to file an Amended Complaint if it so desired.

Subsequent to such hearing, the undersigned Judge being advised by counsel for the Plaintiff that Plaintiff would not seek to file an Amended Complaint but that Plaintiff would accept the finding of the Court, sustaining the Motion to Dismiss.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by this Court that the Defendant's Motion to Dismiss the Plaintiff's Complaint shall be sustained.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED pursuant to the agreement of the Plaintiff and the Defendant that the above ordered Dismissal shall be with prejudice and that each party shall bear their own costs and attorney fees associated with this action.

By: H. DALE COOK
for JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

GABLE & GOTWALS

By: Kenneth E. Dornblaser
Kenneth E. Dornblaser
Attorneys for Swanson
Broadcasting, Inc.

JONES, GIVENS, GOTCHER,
DOYLE & BOGAN, INC.

By: James E. Weager
James E. Weager
Attorneys for Clear Channel
Communications, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 10 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

SEISMOGRAPH SERVICE CORPORATION,)
a Delaware corporation,)
Plaintiff,)

vs.)

ESP, EARTH SCIENCES, INC., an)
Oklahoma Corporation; ESP, EARTH)
SCIENCES, INC., d/b/a EARTH SCIENCE)
PROGRAMMING; EARTH SCIENCE PROGRAMMING,)
INC., an Oklahoma Corporation; and)
Larry W. Hall, an individual.)
Defendants.)

85-C-579-E

ORDER TO REMAND

COMES NOW the defendant, the movant herein, and does for good cause shown remand the petition for removal filed by the defendant on the 17th day of June, styled 85-C-579-E, back to the District Court in and for Tulsa County, State of Oklahoma styled CJ-85-03147 and it is hereby, remanded to the District Court of Tulsa County, State of Oklahoma. *COURT RELIES UPON TELEPHONE CONCURRENCE OF ALL COUNSEL.*

James C. Ellison
JUDGE ELLISON

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL 10 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 CHRISTINE D. WALTZ, BOARD)
 OF COUNTY COMMISSIONERS,)
 Ottawa County, Oklahoma,)
 and COUNTY TREASURER,)
 Ottawa County, Oklahoma,)
)
 Defendants.)

CIVIL ACTION NO. 85-C-345-E

STIPULATION OF DISMISSAL

COME NOW the Plaintiff, United States of America, by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendants, Board of County Commissioners, and County Treasurer, Ottawa County, Oklahoma, by their attorney, Mr. David L. Thompson, Assistant District Attorney, Ottawa County, Oklahoma, and hereby stipulate and agree that the above-captioned action may be dismissed without prejudice pursuant to Rule 41, Federal Rules of Civil Procedure.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney

Nancy Nesbitt Blevins

NANCY NESBITT BLEVINS
Assistant United States Attorney

David L. Thompson

DAVID L. THOMPSON
Assistant District Attorney
Ottawa County, Oklahoma

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JUL 10 1985
Jack G. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JOHN W. TAYRIEN,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-338-E

DEFAULT JUDGMENT

This matter comes on for consideration this 10 day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, John W. Tayrien, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, John W. Tayrien, acknowledged receipt of Summons and Complaint on May 21, 1985. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, John W. Tayrien, for the principal sum of \$10,976.16, plus accrued interest of \$62.19 as of May 31, 1984, plus interest on the

principal sum of \$10,976.16 at 4 percent from May 31, 1984, until paid, plus costs of this action.

H. DALE COOK

UNITED STATES DISTRICT JUDGE

JOL JAMES O. ELLISON

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MIDAMERICA FEDERAL SAVINGS AND)
LOAN ASSOCIATION, a Federal)
savings and loan association,)
)
Plaintiff,)
)
vs.)
)
SHEARSON/AMERICAN EXPRESS, INC.,)
a Delaware corporation, and DON)
CROW, an individual,)
)
Defendants.)

FILED

JUL 10 1985 *rm*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. 84-C-10-C

JUDGMENT

This action came on for trial before the Court and a jury, Honorable H. Dale Cook, Chief Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged that the plaintiff take nothing on the eighth cause of action (negligence and gross negligence); that the eighth cause of action be dismissed on the merits; and that the defendants, Shearson/American Express Inc. and Don Crow recover of the plaintiff, MidAmerica Federal Savings & Loan Association, their costs of the action.

Dated at Tulsa, Oklahoma this 10th day of July, 1985.



H. Dale Cook
Chief Judge
United States District Court for
the Northern District of Oklahoma

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MIDAMERICA FEDERAL SAVINGS AND)
LOAN ASSOCIATION, a Federal)
savings and loan association,)
)
Plaintiff,)
)
vs.)
)
SHEARSON/AMERICAN EXPRESS, INC.,)
a Delaware corporation, and DON)
CROW, an individual,)
)
Defendants.)

FILED

m JUL 10 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. 84-C-10-C

JUDGMENT

This action came on for trial before the Court and a jury, Honorable H. Dale Cook, Chief Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged that the plaintiff take nothing on the seventh cause of action (breach of oral contract); that the seventh cause of action be dismissed on the merits; and that the defendants, Shearson/American Express Inc. and Don Crow recover of the plaintiff, MidAmerica Federal Savings & Loan Association, their costs of the action.

Dated at Tulsa, Oklahoma this 10th day of July, 1985.



H. Dale Cook
Chief Judge
United States District Court for
the Northern District of Oklahoma

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MIDAMERICA FEDERAL SAVINGS AND)
LOAN ASSOCIATION, a Federal)
savings and loan association,)
)
Plaintiff,)
)
vs.)
)
SHEARSON/AMERICAN EXPRESS, INC.,)
a Delaware corporation, and DON)
CROW, an individual,)
)
Defendants.)

FILED

JUL 10 1985 *jm*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

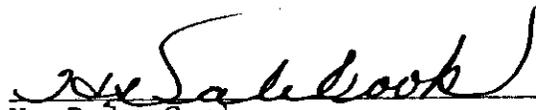
Case No. 84-C-10-C ✓

JUDGMENT

This action came on for trial before the Court and a jury, Honorable H. Dale Cook, Chief Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged that the plaintiff take nothing on the fourth cause of action (statutory and common law fraud); that the fourth cause of action be dismissed on the merits; and that the defendants, Shearson/American Express Inc. and Don Crow recover of the plaintiff, MidAmerica Federal Savings & Loan Association, their costs of the action.

Dated at Tulsa, Oklahoma this 10th day of July, 1985.



H. Dale Cook
Chief Judge
United States District Court for
the Northern District of Oklahoma

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MIDAMERICA FEDERAL SAVINGS AND
LOAN ASSOCIATION, a Federal
savings and loan association,

Plaintiff,

vs.

SHEARSON/AMERICAN EXPRESS, INC.,
a Delaware corporation, and DON
CROW, an individual,

Defendants.

FILED

m JUL 10 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. 84-C-10-C ✓

JUDGMENT

This action came on for trial before the Court and a jury, Honorable H. Dale Cook, Chief Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged that the plaintiff take nothing on the second cause of action (Section 12(1) of the Securities Act of 1933); that the second cause of action be dismissed on the merits; and that the defendants, Shearson/ American Express Inc. and Don Crow recover of the plaintiff, MidAmerica Federal Savings & Loan Association, their costs of the action.

Dated at Tulsa, Oklahoma this 10th day of July, 1985.



H. Dale Cook
Chief Judge
United States District Court for
the Northern District of Oklahoma

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MIDAMERICA FEDERAL SAVINGS AND)
LOAN ASSOCIATION, a Federal)
savings and loan association,)
)
Plaintiff,)
)
vs.)
)
SHEARSON/AMERICAN EXPRESS, INC.,)
a Delaware corporation, and DON)
CROW, an individual,)
)
Defendants.)

FILED

JUL 10 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

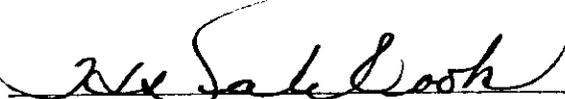
Case No. 84-C-10-C ✓

JUDGMENT

This action came on for trial before the Court and a jury, Honorable H. Dale Cook, Chief Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged that the plaintiff take nothing on the first cause of action (Section 10b of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10-5); that the first cause of action be dismissed on the merits; and that the defendants, Shearson/American Express Inc. and Don Crow recover of the plaintiff, MidAmerica Federal Savings & Loan Association, their costs of the action.

Dated at Tulsa, Oklahoma this 10th day of July, 1985.


H. Dale Cook
Chief Judge
United States District Court for
the Northern District of Oklahoma

J

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA JUL -5 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UTICA NATIONAL BANK & TRUST CO.,)
a national banking association,)
)
Plaintiff,)
)
vs.)
)
CALVIN RANSOM, et al.,)
)
Defendants.)

85-C-512-E
No. 85-537C

NOTICE OF DISMISSAL WITHOUT PREJUDICE

Plaintiff, Utica National Bank & Trust Company, does hereby
dismiss without prejudice the claim alleged herein against
Donald J. O'Brien.

Charles V. Wheeler

Charles V. Wheeler
GABLE & GOTWALS, INC.
20th Floor, Fourth National Bank
Tulsa, OK 74119

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that on the 3rd day of July, 1985
a true, correct and exact copy of the above and foregoing
instrument was forwarded by U.S. Mail, with proper postage
thereon fully paid to the following person:

Mr. Donald J. O'Brien
13085 Sky Park Drive
Omaha, Nebraska 68137

Charles V. Wheeler

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL -3 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JANETTE M. WILLCOX,)
)
 Defendant.)

CIVIL ACTION NO. 85-C-265-B

NOTICE OF DISMISSAL

COMES NOW the United States of America by
Layn R. Phillips, United States Attorney for the Northern
District of Oklahoma, Plaintiff herein, through Hubert A. Marlow,
Assistant United States Attorney, and hereby gives notice of its
dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure,
of this action without prejudice.

Dated this 3rd day of July, 1985.

UNITED STATES OF AMERICA

LAYN R. PHILLIPS
United States Attorney

Hubert A. Marlow

HUBERT A. MARLOW
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 3rd day of July,
1985, a true and correct copy of the foregoing was mailed,
postage prepaid thereon, to: Janette M. Willcox, 324 West Main,
Jenks, Oklahoma 74037

Hubert A. Marlow
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DAVID FELTZ and CINDY FELTZ,
husband and wife,

Plaintiffs,

vs.

THE COUNTY OF OSAGE, by and
through the OSAGE COUNTY BOARD
OF COMMISSIONERS, GEORGE WAYMAN,
Osage County Sheriff, TOM TEEL,
WADE FARLAND, DOUG MCKENZIE and
HARROLD GAFFNEY, jointly and
severally,

Defendants.

No. 83-C-778-B

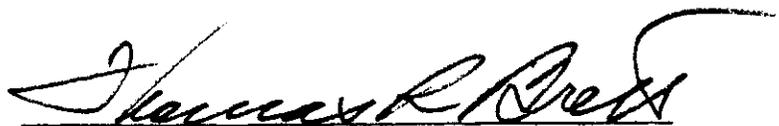
FILED

JUL - 3 1985

John C. Oliver, Clerk
U. S. DISTRICT COURT

This matter comes before the Court on the application of defendant County of Osage, by and through the Osage County Board of Commissioners to assess attorney fees. A prevailing defendant in an action brought pursuant to 42 U.S.C. §1983 may recover attorney fees only when the suit is vexatious, frivolous, or brought to harass or embarrass the defendant. Hensley v. Eckerhart, 461 U.S. 424, 429 n.2 (1983). Upon a review of the complaint and absent any such allegation by defendant, the Court concludes this matter does not meet such a description. Defendant's application for attorney fees is denied.

IT IS SO ORDERED this 3rd day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUL -3 1985

JACK G. SILVER, CLERK
U.S. DISTRICT COURT

LOUIS PORTER,)
)
Plaintiff,)

v.)

No. 82-C-742-B

SAM BELZBERG and LESMUR HOLDINGS,)
LTD., a Canadian corporation,)
)
Defendants and)
Third-Party Plaintiffs,)

v.)

JOE CAPOZZI, an individual;)
CLARENCE R. WRIGHT, an individual;)
THE YUKON NATIONAL BANK, a nation-)
al banking association; ATOKA CON-)
SULTANTS, INC., a/k/a ATOKA CON-)
SULTING COMPANY, INC., an)
Oklahoma Corporation; RAYMOND)
WRIGHT, an individual; C. R. WRIGHT)
ASSOCIATES MANAGEMENT, INC., an)
Oklahoma corporation; CO-RAN INVEST-)
MENTS, INC., an Oklahoma corpora-)
tion; JAN L. MILLER, an individual;)
JACK W. SMITH, an individual; S.P.)
ENERGY COMPANY, an Oklahoma cor-)
poration; and RESOURCES DIVERSI-)
FIED, INC., an Oklahoma corporation)
)
Third-Party Defendants.)

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered as follows in favor of Lesmur Holdings, Ltd., a Canadian corporation, and against the defendants, Clarence R. Wright, Yukon National Bank, Atoka Consultants, Inc., C. R. Wright Associates Management, Inc., Co-Ran

Investments Company, Inc., S.P. Energy Company and Resources
Diversified, Inc.:

(A) In the sum of \$224,060.00, plus 6% per annum interest
from August 7, 1981 until this date;

(B) In the sum of \$37,883.66;

(C) Lesmur and SCN, SCN as successor in interest to the
Can-Leasing joint venture, are hereby entitled to be and are in-
demnified by said defendants against all claims, costs, expenses,
and/or judgments relative to lease acquisition costs, charges, or
expenses made by Debbi Fleming, Jack W. Smith, or Ralph Curton, Jr.

(D) Punitive damages in the amount of \$50,000.00 against the
said defendants;

(E) Post-judgment interest from this date on the monetary
awards herein at the rate of 7.70% per annum;

(F) The costs of this action.

IT IS FURTHER ADJUDGED the defendants, Joe Capozzi, Jack W.
Smith, Jan Miller and Raymond Wright are hereby granted judgment
against the defendant Lesmur Holdings, Ltd., plus their costs
herein.

IT IS FURTHER ADJUDGED all parties herein are to pay their
own respective attorneys fees.

DATED this 3rd day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL -3 1985

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 OBER W. WILLIAMS and)
 MARCELINE C. WILLIAMS,)
)
 Defendants.)

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

CIVIL ACTION NO. 84-C-882-B

DEFAULT JUDGMENT

This matter comes on for consideration this 3rd day of July, 1985, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Ober W. Williams, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Ober W. Williams, acknowledged receipt of Summons and Complaint on November 27, 1984. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Ober W. Williams, for the principal sum of \$5,945.60, plus accrued interest of \$210.08 as of January 31, 1982, plus interest on the

principal sum of \$5,945.60 at 4 percent from January 31, 1982,
until paid, plus costs of this action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DAVID FELTZ and CINDY FELTZ,
husband and wife,

Plaintiffs,

vs.

THE COUNTY OF OSAGE, by and
through the OSAGE COUNTY BOARD
OF COMMISSIONERS, GEORGE WAYMAN,
Osage County Sheriff, TOM TEEL,
WADE FARLAND, DOUG MCKENZIE,
and HAROLD GARRNEY, jointly and
severally,

Defendants.

No. 83-C-778-B

FILED

JUL - 3 1985

**Jack C. Silver, Clerk
U. S. DISTRICT COURT**

JUDGMENT

This action came on before the Court on the amended motion to dismiss of defendants George Wayman, Tom Teel, Wade Farland, and Harold Guffey and the motion having been deemed confessed,

IT IS ORDERED AND ADJUDGED that the plaintiffs take nothing, that the action be dismissed on the merits, and that the defendants recover of the plaintiffs their costs of action.

Dated at Tulsa, Oklahoma this 3rd day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

entitled

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA JUL -3 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

CRAWFORD ENTERPRISES)
MANUFACTURING, INC.,)
)
Plaintiff,)
)
v.)
)
RYDER/P-I-E NATIONWIDE, INC.,)
)
Defendant.)

No. 84-C-395-B

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, IT IS HEREBY ORDERED AND ADJUDGED the plaintiff, Crawford Enterprises Manufacturing, Inc., against the defendant, Ryder/P-I-E Nationwide, Inc., in the amount of Three Hundred Twenty Thousand Two Hundred Sixty and 99/100 Dollars (\$320,260.99), plus interest from this date at the rate of 7.70% and the costs of this action.

DATED this 3rd day of July, 1985.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL - 3 1985

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IRVIN C. KELLER and WILLIAM)
BANNER, for themselves and)
other persons similarly)
situated,)

Plaintiffs,)

vs.)

Case No. 84-C-629-E

AGRICO CHEMICAL COMPANY, a)
Delaware corporation, and)
THE WILLIAMS COMPANIES, a)
Nevada corporation,)

Defendants.)

ORDER ALLOWING
JOINT STIPULATION OF DISMISSAL

Upon the joint stipulation of attorneys for Plaintiff Mildred Graves and Defendants Agrico Chemical Company and The Williams Companies, and for good cause shown, the Complaint of the Plaintiff Mildred Graves against said Defendants is dismissed with prejudice to the filing of a future action.

S/ THOMAS R. BRETT

 S/ JAMES O. [unclear]
UNITED STATES DISTRICT JUDGE

DEFENDANT

MILDRED TRUMBULL

DOCKET NO.

84-C-994-BT

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH DAY YEAR 07 02 85

COUNSEL

WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL

Lantz McClain & Gary McCurdy, Retained Counsels (Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea,

NOLO CONTENDERE,

NOT GUILTY

JULY 2 1985

Jack U. Silver, Clerk

U.S. DISTRICT COURT

FINDING & JUDGMENT

There being a finding/verdict of

NOT GUILTY. Defendant is discharged

GUILTY.

Defendant has been convicted as charged of the offense(s) of having violated Title 18, U.S.C., Section 401(3) to wit: criminal contempt of Court in having violated the Courts order (Consent Decree of Permanent Injunction) in case number 80-C-482-BT filed in this district on December 3, 1980.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that:

The imposition of sentence is suspended and the Defendant is placed on probation for a period of Three (3) years.

SPECIAL CONDITIONS OF PROBATION

IT IS FURTHER ORDERED that the Defendant comply with the Consent Decree of Permanent Injunction filed on December 3, 1980 in case number 80-C-482-BT.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

Approved as to form:

Jack S. Morgan Asst. U.S. Attorney

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

U.S. District Judge

U.S. Magistrate

THOMAS R. BRETT

Date 7-2-85

True Copy of Court By: A. Quarter

Entered

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
JUL -2 1985

FRED and LEOMA HAMIL,)
)
 Plaintiffs,)
)
 v.)
)
 HENRY T. WITTENBURG, D.O.,)
)
 Defendant.)

JACK C. SILVER, CLERK
U.S. DISTRICT COURT
No. 84-C-428-B

JUDGMENT ON VERDICT

In keeping with the verdict of the jury entered on July 1, 1985, Judgment is entered in favor of the plaintiff, Fred Hamil, and against the defendant, Henry T. Wittenburg, D.O., in the amount of One Hundred Forty-Three Thousand Five Hundred Dollars (\$143,500.00), pre-judgment interest at the rate of 15% per annum from May 16, 1984 until this date, post-judgment interest at the rate of 7.70% per annum from and after this date, plus the costs of this action if timely applied for; ^{1/} IT IS FURTHER ORDERED the defendant, Henry T. Wittenburg, D.O., is to have judgment against the plaintiff, Fred Hamil, on the claim of Fred Hamil for punitive damages against Henry T. Wittenburg, D.O.; IT IS FURTHER ORDERED the plaintiff, Leoma Hamil, is to take nothing against Henry T. Wittenburg, D.O., on her claim against the said Henry T. Wittenburg and he is granted judgment against the said Leoma Hamil.

DATED this 2nd day of July, 1985.

Thomas R. Brett
THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

1/ The jury determined total damages of Fred Hamil in the amount of \$295,000.00 and found the plaintiff, Fred Hamil, 50% negligent and the defendant, Henry T. Wittenburg, D.O., 50% negligent; thus the \$295,000.00 damages of Fred Hamil are to be reduced by 50%, i.e., \$147,500.00 and further reduced by the sum of \$4,000.00 previously paid to Fred Hamil by way of settlement by the co-defendants, David Morris and Robert L. Rutherford.

Entered

F I L E D

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

JUL - 2 1985

Jack C. Silver, Clerk
U.S. DISTRICT COURT

MILDRED GRAVES,)
)
Plaintiff,)
)
vs.)
)
AGRICO CHEMICAL COMPANY,)
a Delaware corporation,)
)
Defendant.)

Case No. 83-C-841-B

ORDER ALLOWING
JOINT STIPULATION OF DISMISSAL

Upon the joint stipulation of attorneys for Plaintiff Mildred Graves and Defendant Agrico Chemical Company, and for good cause shown, the Complaint of the Plaintiff Mildred Graves against said Defendant is dismissed with prejudice to the filing of a future action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

Entered

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL -2 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

JACK E. MADEWELL and)
PENNY J. WOOD-MADEWELL,)
Plaintiffs,)

v.)

No. 83-C-746-B

JACK WILLIAM REEVES; DALE MURRAY,)
Tulsa County Sheriff's Deputies,)
and FRANK THURMAN, Tulsa County)
Sheriff,)
Defendants.)

DISMISSAL WITH PREJUDICE

The captioned case is hereby adjudged to be dismissed with prejudice at the request of the plaintiffs and each party is to pay their own respective costs and attorneys fees.

ENTERED this 2nd day of July, 1985.

Thomas R. Brett

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

47

Entered

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUL - 1 1985

UTICA NATIONAL BANK & TRUST)
COMPANY,)
)
Plaintiff,)
)
-vs-)
)
LESLIE E. SINGLETARY,)
)
Defendant.)

**Jack C. Silver, Clerk
U. S. DISTRICT COURT**

No. 84-C-764-B

ORDER AND JUDGMENT

This action came on before the Court upon the Stipulation of Dismissal of Counterclaim filed herein by the parties, and further upon the judgment entered by this Court on June 5, 1985, in reference to the claim filed by Plaintiff Utica National Bank & Trust Company. The Court, having considered the actions of the parties and the orders entered, finds that no issues remain to be adjudicated.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff, Utica National Bank & Trust Company, recover of the Defendant, Leslie E. Singletary, the sum of \$10,300.00, pre-judgment interest of \$1,425.47 as provided in the Order Confessing Judgment, post-judgment interest at the rate of 8.57 per cent as provided by law, a reasonable attorneys' fee of \$1,782.90 as agreed upon by the parties, and costs in the amount of \$63.00 as provided in the agreed Order Confessing Judgment.

DATED at Tulsa, Oklahoma, this 1st day of July,
1985.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUL -1 1985

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

KENNETH COOPER,

Plaintiff,

vs.

DENNY'S, INC.,

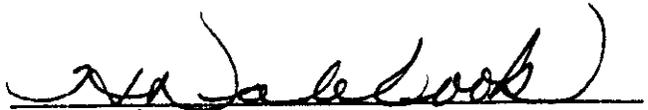
Defendant.

No. 83-C-614-C

J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of Law filed simultaneously herein, it is hereby ordered that judgment be entered in favor of the defendant and against the plaintiff, and that the defendant recover of the plaintiff its costs of action.

IT IS SO ORDERED this 28th day of June, 1985.


H. DALE COOK
Chief Judge, U. S. District Court